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# APPENDIX I

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## FOREIGN RELATIONS

OF THE

## UNITED STATES

1894

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WASHINGTON  
GOVERNMENT PRINTING OFFICE  
1895





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# CHINESE-JAPANESE WAR.

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*Mr. Heard to Mr. Gresham.*

No. 1.]

LEGATION OF THE UNITED STATES,  
*Seoul, Korea, April 4, 1893. (Received May 9.)*

SIR: We have been witnessing within the past few days a curious phase of Eastern life, which has not been devoid of a personal interest for ourselves. A body, numbering about forty men, have been kneeling before the palace gate, waiting for an officer of the court to come and take from them a petition to be laid before the King. These men were the representatives of a new religious sect which sprang into being in 1859, and whose founder, Ch'e Cheng-woo, was put to death as a heretic and a sorcerer by the governor of Cholla Do in 1864. Every effort has been made to stamp it out, but notwithstanding the persecution, or perhaps because of the persecution, the sect has flourished, and, growing rapidly, now numbers many thousands of adherents, chiefly in the southern provinces.

A report reached me some three months ago that they were collecting at a central point with the intention of marching on Seoul, but it died away, to be renewed again a fortnight ago. On the 18th ultimo all the foreign representatives were informed by their chusa, or native interpreter, that the Tong Hák were coming, many tens of thousands strong, and that an article of their creed was the expulsion of foreigners. Inquiry failed, however, to find any authority for the statement. The chusa, when questioned, had been told the report by friends; they did not know; they had heard it talked about, and in two or three days they began to doubt whether there was anything in the story. The high officials denied that there was any truth in it, and on the 28th the president of the foreign office assured me that it was only a rumor among the people, unworthy of attention.

Unquestionably, however, there was a sense of uneasiness in high places. The English gunboat *Peacock* and the German gunboat *Itlis* were at Chemulpo at the time, and both Mr. Hillier and Mr. Krien were approached with the view of inducing them to retain them here. Neither of these gentlemen was able, however, to get any statement that there really was danger to foreigners, and they were unwilling to act on vague rumors. The gunboats went away.

A well-known official of high rank spoke at the first to Mr. Hillier on the subject, and called upon him again on the 30th, when much the same conversation took place. He thought there might possibly be danger, but refused to say that there was danger. The malcontents were, in any event, unarmed, and the soldiers could easily deal with them. Apparently, he would have been pleased to have danger inferred and precaution against it taken by foreigners without in any way committing himself. This was the impression made upon Mr. Hillier. For



the last fortnight the Tong Hâk, or "men of the Eastern religion," have formed the subject of all conversation and interest in Seoul, and on the 29th about forty of them appeared and knelt before the palace gate, where they remained several days. Upon a table covered with a red cloth was placed the petition which they wished to lay before the King. It bore the inscription:

The petition of subjects of different provinces, scholars, of whom the chief is Pak Siung-ho, humbly submits: The religion of the late Ch'e Cheng-woo was condemned as heresy and sorcery, though in reality its teachings were to revere Heaven, to purify the heart, to protect the nation, and to tranquilize the people. Now this is a grievance to be redressed.

Its contents are unknown, but its first object is said to be to procure a reversal of the sentence which condemned the founder, Ch'e Cheng-woo to an ignominious death as a heretic and sorcerer, and permission to practice their religion; and it is supposed to contain a protest against foreigners and Christianity, with the request that His Majesty should intervene.

The strength of the organization, or the strength of its backing in Seoul, may be inferred from the fact that not long ago to be suspected of having affiliations with the Tong Hâk was to insure persecution and death; and to-day they declare themselves boldly at the gate of the palace asking, almost demanding, recognition. Only forty appeared there, but it is supposed there are many hundreds, perhaps thousands, in the city, and these forty were renewed from time to time as they became fatigued. The birthday of the crown prince occurred on the 24th of March, and the quagas or examinations that were held in honor of the event have been the pretext under which great numbers from the country have entered the city, a certain proportion of them, no doubt, belonging to this sect.

Their present leader is Pak Siung-ho, and he made the following statement to a Korean Christian who went to him for information a few days ago, without saying who or what he was:

The religion, which is the only true religion and contains all that is good in Confucianism, Buddhism, and Taoism, was founded by Ch'e Cheng-woo in 1859. Being inspired by God, he went up into the mountains, and after praying for one thousand days God appeared to him and told him to search under certain rocks. He sought and found four books, which are the sacred books known only to adepts, and containing the doctrines of the faith. They teach the worship of one God, the Creator of heaven and earth, and sacrifice to ancestors; mutual respect between father and child; the subjection of the wife to her husband; the submission of nobles to the King, and faithfulness between friends. In sum, reverence for God and love for man. (It might be thought that the faith of the hearer had tintured what he heard.)

Pak denied that they had any hostility to foreigners, and that they practiced the acrobatic and conjuring feats ascribed to them by the common people. All their disciples are scholars, and all are received who will obey the precepts inculcated.

To these principles no objection can be made; but to the sincere believers must be added many who believe in the success of the movement and who wish to be on the winning side; and by many (it is reported) who are hostile to the Roman Catholics. These are thought, either rightly or wrongly, to be protected by the priests from the exactions of the magistrates, to which all others are liable; and if there is anything to call forth hostility from the mandarin it is to see what he considers as his lawful prey withdrawn from his clutches; and all those who must

pay hate without measure those who are exempt. Many, it is said, of bad character, enroll themselves under the priests to escape the payment of their just debts. I am now only repeating remarks which are not unusual among Koreans, in which, no doubt, there is much exaggeration.

So much for the sect as a sect proper. But we must also look upon it as an organized body, which may be used by a political party for political purposes; and there are many who regard the present movement as only a demonstration of political intrigue.

What the Government fears, if it fears anything, is not so much what may take place in Seoul, where they have a body of disciplined troops who are probably free from the contamination, as of an outbreak in the southern provinces, where there is a certain feeling against foreigners, or against Catholics, and where alone apparently it exists. It was in Kiong-sang Do that the attacks were made on Père Robert near Tai-ku, and recently on another priest at Kam-san. Ch'ung-ch'ong Do, Kiong-sang Do, and Cholla Do are said to be full of these people, and it is impossible to say how far their tenets may have gained over the officials.

The Government was brought to face this dilemma. If they received the petition and antagonized foreigners they would have an ugly task before them. If they received and disregarded it, they might bring about a revolution; and, curiously enough, the headquarters of the sect is Kong-chin, in Ch'ung-ch'ong Do, the appointed new capital of the Kingdom after the present dynasty has been removed, which you are aware was predicted would take place after its five hundredth year. This is the five hundred and second, and these fanatics may look upon themselves as the appointed agents of heaven to bring it about.

On Friday, the 31st, the King came to a decision. He sent out an officer to order the people to leave their station before his gates on pain of arrest, and they did so. Many of them left the city the next day. The reason given for not receiving the petition was that it had not been forwarded through the proper channel. It should first have been presented to the Chong-wan, a board which enregisters the King's decrees. On the next day a decree appeared in the Gazette, in which His Majesty admonished the Tong Hâk, in a fatherly way, to abandon their false doctrines and study the true Confucian wisdom. If they did not heed his admonitions he would be compelled to chastise them even unto death.

On the night of the 21st a placard, of which I inclose a translation, was affixed to the school of the Presbyterian mission, and another, identical, on the gate of the residence of Mr. Jones, a member of the Methodist mission. No other placards, that I am aware of, were posted on any other property in Seoul. If it were done by the Tong Hâk, it may be that the leader, Pak, knew or suspected who his interlocutor was the day before. Mr. Gifford and Mr. Jones called on me with the placards late Saturday afternoon, the 1st, and I at once had an interview with the president of the foreign office. I told him I did not wish to attach too much importance to them, as being the work of irresponsible persons, but I deemed it proper, in the interests of good order, to bring them to his notice. He remarked that it was singular they should have been attached to the Protestant and not to the Roman Catholic mission. He said the Tong Hâk were now driven away and unless they kept quiet they would be severely dealt with. A petition to this effect to His Majesty was being prepared by the Confucian scholars of the city. He added, "there will be no trouble."



It is very difficult to estimate the importance of a movement of this kind in a country like Korea, where all evidence accessible to foreigners is vague and untrustworthy. In no country more than Korea does what one sees depend so essentially on the point of view; and although it is easy to exaggerate, one must always bear in mind that it is dangerous to despise trifling indications. Early in this affair Mr. Hillier called to consult with me with regard to requesting naval assistance and arranging that a ship of some nationality should always remain at Chemulpo, one relieving another. I told him that under the circumstances I did not feel disposed, for various reasons, to telegraph for a man-of-war, and before we could write there might be further developments to guide us.

There is no doubt a good deal of excitement in the city, and I shall inform the admiral of the circumstances by this mail. I do not think they warrant a telegram. I saw by the newspapers that he was at Hongkong on the 8th of March.

I have, etc.,

AUGUSTINE HEARD.

P. S.—As I was closing this dispatch, Mr. Jones brought me another placard which he found on his gate this morning. It is much more scurrilous than the other, and I doubt whether it came from the same hand. It orders him to leave the country in twenty days. I have sent a copy to the president, and told him that, though I was not inclined to give much importance to the first, the repetition of the offense made it necessary for me to insist on his putting an immediate stop to it. He must discover the culprit and punish him severely.

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[Inclosure 1 in No. 1.—Translation.]

*Placard of March 31.*

Alas, alas! my little children, receive the words of this notice with reverential fear.

Surely our Eastern land has been a Kingdom of propriety and rectitude for several thousand years. The growth of this Kingdom of propriety and rectitude, and the practice thereof, even this, have hardly been achieved; how much less that of other creeds?

An inspection of the books of these creeds, and an examination of the doctrines they inculcate, disclose the fact that, in their so-called teaching, what is styled reverence of heaven is really rebellion against heaven; what is called love toward mankind is a delusive mockery and a stealing of men's hearts.

Heaven and hell! what talk is this? Although our people talk of spirits and genii, who ever saw one? Although these people talk about heaven, who ever saw heaven?

But upon you, you fools and foolish strangers, who delude and bewilder with empty nothings; who believe in chaotic incoherence; who forsake sound and great principles and follow after "universal love;" who cast aside ancestral sacrifice and practice these extravagant teachings. This is what the sages and worthies meant when they said "without father," "without sovereign."

In ancient days the illustrious ministers and advisers of our glorious and sacred rulers founded seminaries and established schools of thought for the gradual development of the principles of charity and patriotism, and the covering, as it were, with a cloak of civilization the regions of the east and west. There was universal good government brought about. Now, strange doctrines are spread abroad like a network; delusion and falsehood have sprung up like weeds. Thus is misrule and disorder universally prevalent.

You are the descendants of these able ministers and advisers, and you bring dishonor upon your illustrious ancestry. Is it not pitiful? Is it not a detestable state of things?

The greatness of our doctrines proceeds from heavenly brightness—heavenly effulgence. Dare you, then, plunge from these into profligacy and bring shame and dishonor on this teaching?

The principles of universal good government are to be found in the proximity of our ruler who dwells in the midst of perfect refinement. Can you but be afraid of what you are doing? Can you but beware?



Alas, alas! my little children; follow the great doctrine; make men of your men; burn these books. So shall you live in an infinitesimal degree as you ought to live. (Here follow four lines of unintelligible verse.)

An anonymous notice issued by Mr. Kung-i, of Pai-ling Shan, betwixt night and day in the second moon of the cyclical year Kuei ssü (1893).

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[Inclosure 2 in No. 1—Translation.]

*Placard of April 4.*

*To the head of the religion addressed:*

You, crowd, listen with your ears. Fortune is decreasing and the doctrine of the world is being lost. The Royal Ancestral Temple has been befouled by interrelation with barbarians. There is no promise in the treaties permitting the establishment of schools and the propagation of religion.

You, heads of religions, have one by one come in saying, "We come to worship God," which you do by prayer only; you say you believe in Jesus, but show it only by hymns. Among you there is neither sincerity nor sense; you never perform what you preach. You say, "Honor thy parents," yet during their life you neither care for nor obey them, and after their death [you have] neither tears nor [funeral] ceremony. Is this human nature? When you marry you first mate [like beasts], and without shame even enter upon marriage a second time. Upon the least evidence of incompatibility you break the marriage tie. Your crowd, originally beggars, sold themselves for the wages offered by the church. Your hearts are full of covetousness for good houses and an easy life.

At first you deceived the children of [native] aristocrats by promises of instruction in English and Chinese, but finally you force them into your religion, and out of the money intended for scholars' food and clothing you have to get your squeeze. Is not that vile? You know that your trips for preaching are only prettexts for sight-seeing and the sale of books. You call this preaching! If there is an eternal hell, you shall first enter it. Do you not fear this? Why, then, discuss with you? We religious scholars, how could we hold converse with a miserly crowd? To speak clearly: You crowd, gather together your possessions and depart quickly. If you don't, with the armor and shields of patriots, and crying out your sins, we will come and attack you on the 7th of the third moon.

Know the same.

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*Mr. Heard to Mr. Gresham.*

No. 2.]

LEGATION OF THE UNITED STATES,  
*Seoul, Korea, April 6, 1893. (Received May 9.)*

SIR: Continuing my dispatch of April 4, I have now the honor to inform you that the followers of Confucius in Seoul addressed a memorial to His Majesty on that day setting forth that the Tong Hák professed false doctrines which were corrupting the people, and asking that they might be compelled to return to the right path or be utterly exterminated. It was known that such a petition was in preparation, and some anxiety was felt lest the opportunity might be taken while attacking the Eastern religion to include in their denunciations the people of the Western religion. But this does not appear to have been the case. His Majesty replied that the Government had charge of the affair and would attend to its duty, admonishing the petitioners at the same time to devote themselves to the study of the principles they professed.

This seems to end the matter for the moment.

I inclose copy of the letter I addressed to-day to the admiral.

I have, etc.,

AUGUSTINE HEARD.

[Inclosure in No. 2.]

*Mr. Heard to Admiral Harmony.*LEGATION OF THE UNITED STATES,  
*Seoul, Korea, April 6, 1893.*

SIR: I have the honor to inform you that for the last two or three months rumors of approaching trouble have been prevalent.

On the 29th ultimo a body of about forty men, representing a new sect called the Tong Hâk, or Eastern religion, of which the founder was put to death as a heretic and a sorcerer by the governor of Cholla Do in 1864, appeared and prostrated themselves before the palace gates. They wished to present a petition to the King requesting that their founder might be rehabilitated and the practice of their religion allowed. It was also supposed to contain a request for the expulsion of foreigners. His Majesty did not receive the petition, and after two days ordered them to be gone and abandon their false doctrines. He admonished them to study the true wisdom of Confucius, and added that if they did not heed his admonition he would seize and punish them severely.

Many hundreds of this sect are supposed to be in this city, and the adherents are very numerous in the southern provinces. Great excitement has prevailed among the natives, in which foreigners have in some measure shared. Insulting placards have been affixed to the residences of American missionaries in which they have been ordered to leave the country before the 22d of April, and there is general uneasiness, which would be much allayed by the presence at Chemulpo of an American man-of-war.

I have thought it my duty to make you acquainted with the circumstances.

I have, etc.,

AUGUSTINE HEARD.

*Mr. Heard to Mr. Gresham.*

No. 3.]

LEGATION OF THE UNITED STATES,  
*Seoul, Korea, April 7, 1893. (Received May 9.)*

SIR: I have the honor to inform you that I received last evening a note from Mr. Hillier, from which I extract the following:

Mr. Yuan sent his secretary to me this afternoon with a message to the effect that two Chinese men-of-war would be in Chemulpo to-morrow morning; also that a strong decree would appear, probably to-morrow, warning the people that enough had been heard about heterodoxy and orthodoxy, and that anyone who vented any more opinions on the subject had better be careful. Lastly, he authorized me to say that he, Yuan, would be responsible, as far as in him lay, for the safety of foreigners and foreign property, and that he was fully confident of his ability to maintain peace and order.

For anyone who knows the energetic character of Mr. Yuan this is a sufficient guaranty of safety.

I have, etc.,

AUGUSTINE HEARD.

*Mr. Heard to Mr. Gresham.*

No. 4.]

LEGATION OF THE UNITED STATES,  
*Seoul, Korea, April 20, 1893. (Received May 23.)*

SIR: Since my dispatches with regard to the Tong Hâk, of April 4, 6, and 7, no serious incident has taken place, but considerable agitation has prevailed among the native community. The officials and higher



classes persist in denying that any danger is to be apprehended, though the streets are strongly patrolled at night, and it is said that several arrests have been made. Many petitions have been presented to the King by bodies of scholars and officials, asking that the Tong Hâk should be severely punished, and His Majesty replied on the 13th instant by a decree in the Royal Gazette, of which a translation is inclosed. The sensation of the fortnight, however, has been the receipt of a manifesto of the Tong Hâk a few days ago, which was affixed to the gate of the Yamên of the governor of Cholla Do, and said to have been posted in every district of the province. It is reported to have been telegraphed to the King, accompanied by alarming statements of the strength and determination of the signers. It is very violent and calls for the extermination of foreigners. I inclose a translation.

On the 13th instant the Japanese consul issued a notification privately to his countrymen warning them that, in consequence of the approach of the Tong Hâk, it was necessary to prepare the women and children for immediate removal to Chemulpo. The Korean authorities would, no doubt, do their best to protect them, but this protection was not to be relied on, and all strong and able-bodied men were ordered to report themselves at the police station or the consulate for instructions.

This notification was brought me on the afternoon of the 14th instant, and I at once wrote to Mr. Sugimura to ask if it were true that he had issued it, and added that if he had I presumed he had in his possession authentic intelligence of danger.

He replied that he had issued a notice, but that his information was derived only from rumor. He had, however, sent trustworthy men to Cholla Do to investigate, and on their return he would communicate to me any facts they might bring. The immediate occasion of this notification was the posting on his gates of an insulting placard ordering the Japanese to leave the country forthwith. Many families of Japanese have betaken themselves, I am told, already to Chemulpo for security.

On casting one's eyes over the summary of events, one can hardly help feeling that something serious is preparing; but yet the confidence one has in the peaceful nature of the Koreans and the long absence of any demonstration of hostility have contributed to produce an almost total lack of alarm among foreigners, although, of course, there are exceptions. So much is this the case that H. M. S. *Severn*, 6,000 tons, a large cruiser, arrived in Chemulpo on the 15th instant and left again yesterday for Shanghai. Captain Henderson told Mr. Hillier that he would respond to any telegraph and be here in case of necessity in less than forty-eight hours. I asked Mr. Hillier, when he mentioned this to me, if he felt certain he would be able, in the event of a serious attack on foreigners, to use the telegraph. He confessed he had not thought of this.

Apart from the danger of willful interference, there is danger of accidental break, which occurs frequently. The line to Fusan is now interrupted.

Although there is a very general disinclination to regard the situation as serious, there are a few persons who think it possible; that behind the screen of the Tong Hâk there may be preparing the return blow of the Tai Wen-kun for the attempt on his life last year. If this be the case, the situation is very grave indeed. Commander Dayton's statement that the State Department had telegraphed Admiral Harmony to send a ship here leads me to suspect that the King had made the request that this should be done through his legation in Washington,

as he did at the time of the death of the Queen Dowager, in 1890. I think there is no question that he is much alarmed at the present state of things.

On the morning of Sunday, the 16th instant, I received a telegram from Admiral Harmony, dated at Nagasaki, asking, "Is there any trouble in Korea?" I replied immediately, "Wrote you 6th; some alarm; doubt if real danger; sending ship would be prudent."

On the afternoon of Tuesday, the 19th instant, the U. S. S. *Petrel* arrived in Chemulpo, and her commander, J. H. Dayton, with four of his officers, came to Seoul the next day. They are now here. Commander Dayton informed me that he was on his way from Yokohama to Shanghai, and touching at Nagasaki on Sunday found the admiral preparing to leave for Korea in consequence of orders from the State Department. The *Petrel* was sent instead, immediately. The admiral had telegraphed me, but had received no reply.

Commander Dayton had seen Captain Henderson of the *Severn*, and was disposed to return to his ship and leave at once. As Captain Henderson had made up his mind to go away, he naturally did not give Commander Dayton the impression that it was necessary to remain; but I told him that under the circumstances I thought it was his duty to remain, at any rate for a few days, and then be governed by circumstances, which he very willingly consented to do.

A day or two after the date of my dispatch of April 7 two Chinese ironclads arrived in Chemulpo, and since then two Japanese men-of-war. They still remain there. No ammunition having been received for the rifles, of which I had the honor to advise the receipt last mail, I have requested Commander Dayton to supply me with 50 rounds per rifle, or 600 cartridges.

I have, etc.,

AUGUSTINE HEARD.

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[Inclosure 1 in No. 4—Translation.]

DECREE.

[Published in Korean Court Gazette of April 13, 1893.]

Some Confucian scholars have recently submitted a petition to us, the contents of which have greatly surprised and grieved us.

Foolish and simple people have been stirred up and deluded by vague and meaningless talk, which has gradually imbued their minds and unsettled them. The laws have been set at naught by blinded and disorderly persons, to the bitter disappointment of well-disposed people. Now, the great principles upon which laws are based is to exhortations followed by punishments, and audacious contempt of the laws is carried to an extreme when people are willfully deluded by strange and heterodox talk.

The ignorant must not thus be imposed upon with impunity, and metropolitan and provincial authorities are hereby called upon to arrest the so-called heads of this movement forthwith. They are, further, to prohibit the spread of this heterodoxy by proclamations, and cause everyone to attend quietly to their own affairs.

If these evil ways are not amended, and people assemble together and become clamorous, will not the authorities hear of it? If it comes to their knowledge, and they stand by with folded hands, will they not be failing in their duty as leaders and guardians, and be remiss in the adoption of preventive measures? Would such conduct as this be called loyal fulfillment of their obligations? In the capital there are courts of justice; in the provinces, official establishments. The penalties incurred will be determined by the exigencies of the locality, and it will be the duty of the officials to make use of every means at their disposal under pain of severe treatment if they fail to do so.

The purport of this royal order will be embodied in street orders which will be issued by the authorities with a view to compelling the people to amend their ways and to live peaceably. They must be made aware that the law shall be obeyed.



[Inclosure 2 in No. 4.]

*Translation of manifesto issued by members of the Tong Hák Society.*

Men have three tasks which confront them in the fulfillment of the duties of life.

(1) The task of laying down rules or limitations of conduct under which they shall carry out the requirements of loyalty to their fullest extent and, if needs be, to sacrifice their lives as servants of their country.

(2) To put forth all their efforts in the direction of loyalty and filial piety and to die, if needs be, for the sake of their personal belongings.

(3) To maintain widowed chastity and to die, if needs be, in the fulfillment of conjugal obligations.

Life and death are the appointed lot of all mankind; this is the unfailing law, whatever may betide. Those who are born in times of freedom from trouble and in periods of peace and happiness should pursue the path of patriotism and filial piety with a joyous heart, while, on the other hand, those who live in seasons of danger and difficulty should sacrifice their lives in the cause of patriotism and of filial piety. This is the task of all true servants of the state, and is a task that may devolve upon them in the course of the permutations of things. Those who love their lives are opposed by the difficulty of sacrificing their lives in the service of their King and their parents. Those who are ready to sacrifice their lives will willingly accept the task of giving them up for their King or their parents, and no one who clings to life can be a true subject or son. Those who are ready to part joyfully with life are the men who are capable of building principles of loyalty and filial piety upon a sure foundation.

Japanese and foreign rebels and thieves are now introduced into the very bowels of our land and anarchy has reached its zenith. Just look round on the capital under present conditions. It is the lair and den of barbarians. Think of the oath of [the year] Yen Ch'en,<sup>1</sup> of the disgrace of [the year] Ping-tzū.<sup>2</sup> Can you bear to forget it? Can you bear to talk of it? Our three thousand millions of people in the Eastern Kingdom are now all in the grasp of wild beasts, and our ancestral homes of five hundred years' duration will shortly witness the disaster of dispersion and dismemberment. Alas for charity, patriotism, prosperity, prudence, filial piety, brotherly love, loyalty, and good faith! What has become of them all at the present time?

Let it, moreover, be remembered that most of the Japanese rebels cherish feelings of hatred toward us, and nurture within them the germs of disaster for our land which they will bring forth to our hurt. The danger threatens us at any moment, and can we regard the situation with tranquillity? It might truly be said of the present condition of affairs that it is in proximity of brushwood.

We who issue this notice are simple, ignorant people, but for all that we are inheritors of the laws laid down by previous rulers, and we till the ground of our King to maintain our fathers and mothers. Although officials and people differ as honorables and commons, where is there any difference between them in the obligations of loyalty and filial piety?

We desire to display our humble loyalty to the State and to secure to her loyal and upright servants their state emoluments to which they are entitled; but we are perplexed as to what to do, and it is not for us to institute comparisons as to the sincerity of our love for the King and loyalty to our country. There is an old saying, "When a great house is about to fall one piece of wood will not support it; when a great wave is about to roll in a single net will not keep it back."

We, who number several millions, have sworn to the death that we will unite in one common effort to sweep out the Japanese and foreigners and bring them to ruin in our sage desire to render to our country the fidelity which even a dog will show to his master, and we humbly hope that everyone, within one common resolution, will combine their efforts and will select loyal and patriotic gentry to assist them in supporting the wish of the country. This is the earnest prayer of millions of people.

(Transcribed by the Tong-Hák men.)

[Inclosure 3 in No. 4.]

*Notification issued by the Japanese Consul.*

APRIL 13, 1893.

Information having come to hand that the Tong Hák have left their homes in Chulla Do and Kyung-sang Do and are now on their way to Seoul, it will be necessary for Japanese subjects to be on the qui vive. No doubt His Majesty will notify

<sup>1</sup> The year 1592, the date of the Japanese invasion.

<sup>2</sup> The year 1876, the date of the treaty of Kanguwa with Japan.

the Japanese representative here in time to allow the Japanese women and children to be sent safely to Chemulpo before the arrival of the Tong Hák in Seoul; but it will nevertheless be best not to trust to receiving the desired information, and Japanese subjects are requested, therefore, to be ready to remove their women and children from Seoul at a moment's notice.

1. Should any Japanese subjects hear of any important news they are requested to report said news to the Japanese consul without delay.

2. Should any Tong Háks reach the vicinity of Seoul the Japanese subjects must be ready to send their women and children to Chemulpo at short notice. A steamer will be telegraphed for to take said women and children safely from Ryon San to Chemulpo.

3. All strong and able-bodied men must immediately appear at either the Japanese police station or consulate to receive further orders as to what they have to do.

4. His Majesty no doubt will have soldiers ready for the protection of foreigners and Japanese, but it will be well not to depend upon said protection.

SUGIMURA,  
Japanese Consul.

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[Inclosure 4 in No. 4.]

*To the Japanese Stranger Merchants' Hall (Consulate):*

Open and see.

In the original space two elements were created (heaven and earth). Among them man appeared, and your [lawful] boundaries were determined. And also, there arose kings and governments, the "Sam Kang"<sup>1</sup> and the "O Ryun."<sup>2</sup> In the "Middle Land" [China] the O Ryun hold the chief place, and the people are known as men. But those who are not thus are savages. Therefore the literature of China has spread far and wide, and the beneficence of the sages has gone to the ends of the earth. The heavenly doctrine is excessively just, regarding virtue and punishing vice. Do you not know that there is a share for you also in this, or are you ignorant of it? When one is in, or follows, a human religion, it is proper to remain within his national lines, protect the people, giving what is due to the King, and aiding the people as opportunity offers. But you covetously and officiously come and interfere with another nation, and make quarrels your chief business, and murder the origin [of your coming]. What spirit is this, and why do you so? Previously, in the year Yen ch'en [1592], what unpardonable crime had Korea committed that you should gather all Japan together and invade Korea, returning after being completely annihilated? Sad and miserable indeed were we! How can we forget it? We have truly against you enmity that can not be forgotten. But what have you against us that can not be forgotten?

Why will you not listen a second time to the sages of the east country (Korea)? There are still men like Sŏ San and Sa Myŏng!

(Then follows an enigmatical passage.) The virtue of our Master is so great and so wide that it has no bounds. It is large enough to embrace even you. Will you listen to us, or injure? Heaven hates you and the Master rebukes you. Make your choice between danger and peace. The musk deer seeing the hunter fast gaining on him with his own mouth destroys the musk bag.

Put not yourself where you will have to regret self-inflicted wounds. I shall not speak again. Be off as quickly as possible to your lands.

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*Mr. Heard to Mr. Gresham.*

No. 5.]

LEGATION OF THE UNITED STATES,  
Seoul, Korea, May 1, 1893. (Received June 12.)

SIR: Since my dispatch of April 20, nothing has occurred to disturb the quiet of Seoul, and we hear nothing more of the Tong Hák. When Captain Dayton left on the morning of the 21st, I asked him to delay

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<sup>1</sup> Caste separation between King and nobles, parents and children, husbands and wives.

<sup>2</sup> The five great Confucian cardinal relations which underlie Korean social and political economy, known in Chinese as the Wu lun, the relations between sovereign and subject, between father and son, elder brother and younger brother, husband and wife, friend and friend.



sailing for a few days, but on the morning of the 24th I telegraphed him: "Situation improved. Will not detain you longer." He replied on the next day: "Leave here at noon. *Alert* here."

On the afternoon of the 27th I received a letter from Commander Book, of the *Alert*, dated 25th, asking if there was any immediate danger here. I replied that there was not, but I should be happy to confer with him on the subject, and invited him and one or two of his officers to pay me a visit. At the same time he asked for permission to land men and practice drill on Roze Island. About half-past 8 on the same day, the 27th, I received from him the following telegram: "Orders received to sail contingent on necessity here. Please wire answer to letter of April 25." I replied immediately: "Letter received only this afternoon. No immediate necessity here." And at half-past 11 on the next night, the 28th, I received from him the dispatch, "Leave to-night." I believe he left Chemulpo on the morning of the 29th.

On the 21st the situation did not look clear at all; on the 22d it was better, and on the 23d I decided that there was no necessity to keep the *Petrel* here, and communicated this decision to Captain Dayton by telegraph early the next day. It was blowing a gale, however, and he did not go to sea.

Soon after Koreans who had been sent to the southern provinces to investigate and report came back and declared that all was perfectly quiet there, but that everywhere they heard stories of great disturbances in Seoul. One man, a Christian, came to me on the morning of the 28th, after a tour of fourteen days through what were called the disturbed districts. He said that nowhere had he found traces of assemblages of the Tong Hâk, and in the town which was named as their headquarters in one of the incendiary placards there were only two or three of the sect. Roman Catholic priests arriving from the south for their yearly meeting in April confirmed these statements.

It is to be hoped that we shall hear no more of these disturbances, but with discontent prevalent throughout the country, owing to the exactions of the officials, we must expect the recurrence of disquieting rumors from time to time.

I have, etc.,

AUGUSTINE HEARD.

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*Mr. Heard to Mr. Gresham.*

No. 6.]

LEGATION OF THE UNITED STATES,  
Seoul, Korea, May 16, 1893. (Received June 24.)

SIR: Soon after the date of my dispatch of May 1 it was reported that many thousands of the Tong Hâk were collected at the town of Po-eun, in the eastern part of Ch'ung ch'ong Do, and that their numbers were daily increasing. Every day brought fresh rumors of their strength, and among the Koreans there was much alarm. Although almost without arms, they were said to be drilling regularly, and professed their intention of marching on Seoul. They had erected a wall about their encampment, in the center of which was a large flag with the inscription, "Down with the Japanese and foreigners! May the right flourish!" and grouped about it were other flags inscribed with the names of the various districts from which the different parties came. They declared that they had no fear of the soldiers who might be sent against them, as the soldiers, instead of attacking, would join them.

Many Koreans who had entirely disregarded the previous manifesta-

tions seemed to look upon this as serious, and sent their families into the country.

An officer of the Government who went down a few days ago to remonstrate with them, and induce them to disperse, reported that they refused to listen to him and asked for troops. On Saturday, the 15th, 800 men, drilled in European style, with three Gatling guns, were sent to Suwen, about 100 li, or 30 miles, from the Seoul, to bar the road; but it is understood they will push on to Chong-ju, distant about 100 miles.

From the fact that their flag bears a hostile inscription, many foreigners believe themselves to be in danger, but I should doubt whether there was any real active hostility felt, and if this body succeed in reaching the city we have less to fear, I think, from it than from the mob of the idle and vicious, who always abound in the streets of cities, and who might try to burn and loot our dwellings. Of this, however, the chance is remote, although, of course, it is possible.

The U. S. S. *Alert* is at Chemulpo since the 7th instant. Admiral Harmony telegraphed me on the 14th: "Infer no need *Alert* Chemulpo. Will order away." As I thought it more prudent she should not leave immediately, I replied: "Unless important elsewhere, suggest waiting few days."

The Tong Hâk in themselves, I believe, are not dangerous. They seem to be quiet and peaceful, and would be content with little besides the rehabilitation of their founder and permission to practice their tenets; but they have no doubt collected to themselves hordes of discontented and poverty-stricken people. The whole may be, and probably is, under the control of a political party, bent on making trouble for the Government, but who this party is, and what its strength, we have as yet no knowledge.

I have, etc.,

AUGUSTINE HEARD.

*Mr. Allen to Mr. Gresham.*

[Extract.]

No. 7.]

LEGATION OF THE UNITED STATES,  
*Seoul, Korea, April 6, 1894. (Received May 28.)*

SIR: I have the honor to inform you that on the morning of the 30th ultimo an official came to me very early from the King, announcing that the rebel Kim Ok-kiun,<sup>1</sup> who led the revolution of 1884 and has since been a refugee in Japan, had been assassinated in the American settlement at Shanghai by a Korean, Hong Chong-oo, who has lived in Paris for some years. It seems that Hong persuaded Kim, with whom he was quite friendly, to accompany him to Shanghai.

His Majesty wished very much to have the murderer sent here for trial, and requested me to telegraph to our consul-general at Shanghai to use his good offices in having the man given up. I did so; Mr. Hunter replying that he must decline to interfere.

Now, however, the man Hong has been turned over to the Chinese authorities for trial, and they will send him to Korea shortly by gun-boat.

In Tokyo something similar was taking place about the same time. A man, Ye, who claimed to have a written order bearing the King's

<sup>1</sup> On Kim Ok-kiun's attempted revolution, see Foreign Relations of the United States for 1885, pp. 331-349.



seal, authorizing him to kill another rebel refugee, Pak Yung-ho, was arrested by the Japanese police upon advice given them by Pak. This man Ye then gave evidence of another conspirator, Hong. The latter went for refuge to the Korean legation. The Japanese Government requested the Korean chargé d'affaires to give up Hong for legal examination, but the chargé declined to do so unless he could sit as a judge on the court. The Japanese declined to accede to his stipulation, and Mr. Otori, their minister here, was requested by telegraph to lay the matter before the Korean foreign office. This was done and another refusal was met with. It seems then that by order of the Japanese foreign office the police entered the Korean legation by force and took Hong to prison.

I have given you the facts as they came to me in many messages from the palace. Mr. Dun, being on the spot, will doubtless give you the facts more clearly than I can.

\* \* \* \* \*

I have, etc.,

H. N. ALLEN.

*Mr. Allen to Mr. Gresham.*

No. 8.]

LEGATION OF THE UNITED STATES,  
*Seoul, April 17, 1894. (Received May 28.)*

SIR: Referring to my dispatch of April 6, I now have the honor to inform you that the body of the murdered rebel Kim Ok-kiun and the murderer Hong were brought to Chemulpo on a Chinese gunboat on the 12th instant and handed over to the Korean authorities. The body was brought at once to Seoul, where it was mutilated and parts of it sent around the country. The mutilation took place on the evening of the 14th, and on that morning Mr. Otori, the doyen, called the representatives together and explained that he was under telegraphic orders from his foreign office to remonstrate with this Government against the proposed mutilation. He asked us all to join him, but did not urge it.

It was the sentiment of all that aside from a personal unofficial explanation to the Koreans of the manner in which such acts are regarded abroad, we had better not meddle in this native custom.

I have, etc.,

H. N. ALLEN.

*Mr. Sill to Mr. Gresham.*

No. 9.]

LEGATION OF THE UNITED STATES,  
*Seoul, Korea, May 17, 1894. (Received June 12.)*

SIR: I have the honor to inform you that the Korean Government is in great anxiety over the disturbed condition of affairs in three southern provinces, viz, in Cholla Do, Ch'ung-ch'ong Do, and Kiong-sang Do. The people have risen against the bitter and merciless oppression of the governors and other officials. While the agitation is at present confined to the three provinces named above, Cholla Do being the most turbulent, the same conditions prevail elsewhere in the Kingdom, and a few successes on the part of the people such as now reported from Cholla Do will stimulate them to like disorder and bloodshed elsewhere and to a general uprising against all officials.

I have acquainted Admiral Skerrett with the situation and forwarded to him a request from the King that he send a ship from his squadron to the port of Chemulpo, at the same time suggesting that I would telegraph him in case the need should become more urgent.

At the earnest request of the Government, I have also called in the American missionaries from the interior, as the Government informed me that they might not be able to protect them outside of the treaty ports.

So far the movement seems to be directed wholly against the oppressive officials, some of whom, with their families, have been put to death. Others have had houses and property destroyed, and after being beaten have been driven from their districts. The Government has sent a considerable body of troops to the scene of the disorder, but they seem to have neither scared nor hurt anyone, and no one here expects them to be of any use. I believe that more frequent visits by our ships would have a salutary moral effect, both upon the people and the Government. An occasional demonstration is needed to keep Koreans and others in mind of the continued existence of the United States of America. No American ship has visited Korean ports for many months. Mr. Ye Cha-yun, formerly chargé d'affaires at Washington, has just now left this legation, after earnestly asking that our ships visit Korean waters more frequently.

\* \* \* \* \*

I have, etc.,

JOHN M. B. SILL.

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*Mr. Uhl to Mr. Sill.*

No. 10.]

DEPARTMENT OF STATE,  
Washington, May 31, 1894.

SIR: I have received Mr. Allen's dispatch, of the 6th ultimo, in regard to Korean political murders.

In the case of Kim Ok-kiun, who led the revolution in Seoul in 1884, and who was murdered in Shanghai by a Korean, Mr. Allen states that at the instance of the King of Korea he telegraphed to the consul-general of the United States at Shanghai, asking him to use his good offices in having the murderer of Kim Ok-kiun given up to Korean justice.

The Department regrets this action on the part of Mr. Allen. Kim was murdered by a Korean in the American settlement at Shanghai; but this gave our consul-general no ground for intervention, for his power of protection and jurisdiction extended no further than over citizens of the United States residing in his purview. On this ground alone, omitting reference to any other, the Department disapproves of his action.

I am, etc.,

EDWIN F. UHL.

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*Mr. Sill to Mr. Gresham.*

No. 11.]

LEGATION OF THE UNITED STATES,  
Seoul, Korea, June 1, 1894. (Received July 21.)

SIR: Referring to my dispatch of May 17, I have now the honor to inform you that I am in receipt of advices this morning from the palace to the effect that a considerable Government force marching from Chon-ju, the capital of Cholla Do, was met by a part of the rebel

forces at Yun-won, a town 40 or 50 miles to the south of Chon-ju, and defeated, the rebels capturing the guns of the soldiers. Meanwhile the other portion of the rebel forces made a detour and captured the capital, which the King's forces had left unprotected.

I had received a reply from Admiral Skerrett to my communication mentioned in my dispatch of May 17, in which he informs me that the greater part of the squadron under his command has been detailed for duty in Bering Sea, and that he is unable at present to act on my suggestion to send a ship to Chemulpo. He adds:

Disturbances are continually arising among the people of Korea, but it has generally been found that the authorities have been able to afford the needed protection, and I trust such may also be the case in this instance. As soon as it is possible a vessel will be sent to Chemulpo.

I have written again to Admiral Skerrett (see my inclosure herewith), informing him that the rebellion is daily gaining strength, that the Government is helpless to compel order, and that there might at any time be urgent need of a ship at Chemulpo to protect American interests and to make residence in Korea safe; since if the insurgents should approach Seoul they would meet with little effectual resistance. I may add that within the past few days the British, French, Chinese, and Japanese have sent vessels to Chemulpo.

I further informed Admiral Skerrett that I would telegraph him for a ship only in case of such pressing need that a favorable response would be necessary to the safety of Americans.

I have, etc.,

JOHN M. B. SILL.

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[Inclosure in No. 11.]

*Mr. Sill to Admiral Skerrett.*

LEGATION OF THE UNITED STATES,  
Seoul, Korea, June 1, 1894.

ADMIRAL: I have the honor to acknowledge the receipt of your communication No. 46, of the 7th ultimo.

I am aware of the great extent of territory guarded by your squadron and of the difficulties in the way of detailing a ship to Korean ports, but I still adhere to the opinion that such detail would be most desirable in view of present circumstances. The rebellion in the southern provinces, especially in Cholla Do, is growing in strength and daily extending the area of disorder and turbulence. I have official information that within a few days a considerable body of soldiers sent by the Government marched out from Chon-ju, the capital of Cholla Do, and attacked the rebels at Yung-won, a town some 40 to 60 miles to the south. The rebels divided their forces, one part remaining in Yung-whan, defeating the Government forces, killing many and capturing their guns, while the larger force made a wide detour and captured Chon-ju.

The King has absolutely no adequate means of restoring quiet by force of arms, and Seoul may at any time become the center of revolution and a most dangerous place for the seventy or eighty Americans residing here.

I may at any time be compelled to telegraph you for aid. I shall not do so unless the necessity shall seem urgent and a favorable response necessary to the safety of American interests here.

I have, etc.,

JOHN M. B. SILL.



*Mr. Denby, chargé, to Mr. Gresham.*

No. 12.]

LEGATION OF THE UNITED STATES,  
*Peking, June 9, 1894. (Received July 18.)*

SIR: I have the honor to confirm my telegram of yesterday's date as follows:

China sending troops Korea to assist that Government against insurgents.

Without going into an account of the present rebellion in Korea, which has doubtless been reported by the United States minister at Seoul, I feel it my duty to advise you of China's action in the matter.

In response to an appeal addressed to China by the King of Korea, through the Chinese resident, 1,500 Chinese troops were shipped from Tien-tsin on the China Merchants' Steam Navigation Company's vessels, the *Huan*, *Toosan*, and *Hating*, on the 6th instant. This force is to be increased to 2,225 men. Three Chinese men-of-war have also been ordered to Chemulpo.

The viceroy, Li Hung-chang, only sent these troops after long hesitation, the Chinese resident at Seoul having first requested his interference about a month ago. He insisted on an express request for assistance from the King of Korea, so that the responsibility for the movement should rest upon him. The viceroy has formally assured the Japanese Government that these troops shall be withdrawn immediately upon the cessation of hostilities, and he has made the same assurances to the Russian minister here. He has also stated to Japan that he would be pleased to have that Government send one or two gunboats to Korea to protect its subjects there.

It is understood that the Chinese force will be primarily used to prevent the approach of the rebels to the capital.

I have, etc.,

CHARLES DENBY, Jr.

*Mr. Sill to Mr. Gresham.*

No. 13.]

LEGATION OF THE UNITED STATES,  
*Seoul, Korea, June 18, 1894. (Received July 27.)*

SIR: Referring to my dispatch of June 1, I now have the honor to inform you that the Korean Government, discouraged by the success of the rebellion in the south, and upon the urgent requests—which to them have the value of commands—of the Chinese representative here, asked Chinese aid, and 2,000 Chinese troops were at once dispatched to Asan, a port in the south. Before they could arrive, however, the Korean troops succeeded in capturing the chief rebels, and a few days later they recaptured Chon-ju, the capital of Cholla Do, taken by the rebels. The Chinese troops have not as yet actively helped in the suppression of the rebellion. Meantime it became known that the Japanese were also sending troops to Korea, and the Korean Government, fearing trouble, asked the Chinese to leave. This they promised to do, but as 500 Japanese marines landed at Chemulpo and came to Seoul on June 10, the Chinese held their troops where they were.

On June 13, 800 Japanese soldiers came to Seoul and relieved the marines. These soldiers had arrived at Chemulpo on transports the day before. They also left some 200 troops at Chemulpo and along the road to Seoul, at certain parts of which they threw up earthworks, while they left a guard at the ferry near Seoul and at other important places



along the Seoul road. Mr. Otori, the Japanese minister to Korea and China, who went away on leave June 1, returned with the troops. On being interrogated Mr. Otori replied that he brought over his troops for the protection of Japanese subjects and his legation, which seemed quite plausible, considering the fact that there are 1,000 Japanese in this city, 4,000 at Chemulpo, and about 10,000 at Fusan and Wensan, while the necessity of protection was shown them in the loss of about 60 people in the rebellion of 1884 and 40 more in that of 1882.

After the rebellion of 1884 China and Japan, by the Tien-tsin convention of 1885, each agreed not to land troops in Korea without first informing the other. The Chinese complied with the terms of this convention, and it is supposed that the Japanese did likewise.

Later, on the 16th instant, 3,000 Japanese troops landed at Chemulpo; and now I am informed that they are encamped with batteries upon the general foreign settlement of Chemulpo, without the consent of the other powers, thus wholly ignoring the treaty rights of each nation represented here. I have joined my European colleagues to-day in an earnest protest against this action.

The Koreans are terribly alarmed. The King has begged the Chinese to leave, but they refuse to do so as long as the Japanese remain, and the latter positively refuse to leave till the Chinese go. Meantime the Chinese subjects here are so greatly alarmed that 1,000 of them are said to be leaving for China to-morrow, as they fear a general butchery by the Japanese.

If the Chinese troops come to Seoul from the south, or if other Chinese troops come to Chemulpo from China, bloodshed will doubtless result. England is said to be occupying Port Hamilton with her fleet. There are twenty-eight men-of-war and transports at Chemulpo, representing six nationalities, as follows: Japan, China, America, England, France, and Russia. We do not know what France, and particularly Russia, will do in the event of a clash of arms, but the Koreans fear them very greatly.

Admiral Skerrett arrived at Chemulpo on his flagship *Baltimore*, June 5, in response to advices from Washington. He sent his flag lieutenant to confer with me, as he was thought to be too ill to come to Seoul himself. I went to the flagship the next day, the 8th, with the lieutenant, and on the 12th, the Admiral came to Seoul with two officers. On the 13th, the King received us in audience, and expressed his gratitude for the presence of an American ship. The admiral returned to his ship on the 15th. He has now promised to remain until things assume a less threatening aspect.

\* \* \* \* \*

There is a report, not yet fully authenticated, that Japan is sending large numbers of troops to Fusan and Wensan.

The matter of asylum has already been mentioned. I am giving it my careful and deliberate consideration, and if it becomes necessary to act, I shall endeavor to conform to established usage.

I have, etc.,

JOHN M. B. SILL.

*Mr. Uhl to Mr. Sill.*

[Telegram.]

No. 14.]

DEPARTMENT OF STATE,  
*Washington, June 22, 1894.*

In view of the friendly interest of the United States in the welfare of Korea and its people, you are, by direction of the President, instructed to use every possible effort for the preservation of peaceful conditions.

*Mr. Sill to Mr. Uhl.*

[Telegram.]

No. 15.]

SEOUL, *June 24, 1894.*

Have received telegram. I have already done and will do as much as possible for the interest of peace. Korean rebellion suppressed by themselves. Thousands Chinese and Japanese troops occupying Korea. Neither of them will withdraw first. In their presence there is much danger. Chinese are in favor of simultaneous departure. Japanese stubborn. Ulterior purpose suspected. She seems to desire war. Korea integrity menaced. The King arduously interceding with Government of Japan.

*Mr. Sill to Mr. Gresham.*

No. 16.]

LEGATION OF THE UNITED STATES,  
*Seoul, Korea, June 25, 1894. (Received August 5.)*

SIR:

\* \* \* \* \*

In reference to my telegram of yesterday I may say that I had it all ready when your message was received, as I was aware that for several days His Majesty and his advisers were busy in preparing a dispatch asking for your intercession.

It was intended at first to ask only the aid of America in this matter, but lest offense might be taken, the dispatch was sent to each of the foreign representatives here (see copy), asking the kindly offices of each. At once, upon the receipt of this dispatch, I sent off my telegram to you as quoted. In the meantime I joined with my colleagues—the representatives of England, Russia, and France—in a request to the Japanese and Chinese authorities here for a simultaneous withdrawal of their troops. (See copy.)

The German representative did not wish to join in this request before informing his Government.

I may add that the situation grows daily more strained. The Japanese troops, numbering some 5,000, are encamped with batteries about Seoul, and Mr. Otori is to have an audience with His Majesty to-morrow, when it is said he will ask certain questions which will doubtless bring matters to a crisis.

Last night I was shown a telegram to the palace, from the Korean minister at Tokyo, stating that China and Japan, with 5,000 soldiers each, would fight soon on Korean soil.

Admiral Skerrett is very desirous of leaving for Japan, and had publicly announced the 23d instant as the date of his departure. In

view of the alarming aspect of the situation, I succeeded in persuading him to delay his departure. It would be exceedingly unfortunate if I should be left at this time with our 80 Americans here unprotected, as the greatest personal danger would doubtless be from mob force, over which the authorities would have no control.

I have, etc.,

JOHN M. B. SILL.

[Inclosure 1 in No. 16.—Translation.]

*Korean Minister of Foreign Affairs to Mr. Sill.*

FOREIGN OFFICE, *Seoul, Korea, June 24, 1894.*

YOUR EXCELLENCY: I have the honor to state that I am directed by His Majesty to bring to the notice of the foreign representatives a certain condition of things now existent in this Kingdom, with a view of its being communicated to the several Governments having treaty relations with Korea.

At this moment the troops of two nations, namely, China and Japan, are in occupation of Korean soil. The first, by invitation, to aid in quelling a rebellion; the other, without invitation and against the protest of the Korean Government, but, as represented to me, on account of solicitude for the safety of her own subjects resident here.

The necessity for the presence of both of these has now ceased. The Chinese authorities, under these circumstances, are now willing to remove their troops from Korean soil, provided Japan will remove hers. But Japan refuses to remove her troops until the Chinese have been removed, and neglects to entertain any proposition for the simultaneous removal of both.

The presence of a large army in time of peace, the landing of cavalry and artillery, the placing of batteries, and keeping a guard at strategic points after internal quiet is assured is a dangerous precedent for other nations and a menace to the peace and integrity of His Majesty's realm.

I respectfully submit to the foreign representatives and their Governments that at a time when Japan and Korea are at peace the presence and holding of Japanese armed troops in Korean territory in extraordinary numbers is not in accordance with the law of nations.

I am directed by His Majesty to ask that the foreign representatives, being fully acquainted with the facts of the situation, will use their friendly offices, as proffered by treaty, in effecting an amicable solution of the present situation.

I have, etc.,

CHO PIONG-CHIK,  
*President of the Korean Foreign Office.*

[Inclosure 2 in No. 16.]

*Joint note from the Foreign Representatives at Seoul to the Imperial Chinese and Japanese Representatives.*

SEOUL, KOREA, *June 25, 1894.*

YOUR EXCELLENCY: We have the honor to inform you that the Korean Government has asked our friendly offices in the present situation in Korea, and has suggested, as a solution of the present difficulties,



the simultaneous withdrawal of Chinese and Japanese troops from the Korean territory.

We, the undersigned representatives, solemnly submit this proposal for your favorable consideration, as a course consistent with the honor and dignity of two great nations with which all our Governments are in friendly relations.

We feel confident that your excellency will fully understand that the interests of our Governments are deeply affected, as the continued presence of foreign troops on Korean soil may easily lead to complications disadvantageous to the security of our nationals.

We should esteem it a favor if your excellency would be pleased to present this communication to your Government at your earliest convenience. We will of course at the same time communicate immediately the request of the Korean Government to our respective Governments.

We have, etc.,

JNO. M. B. SILL,  
*For the United States.*  
 PAUL DE KEHRBERG,  
*For Russia.*  
 J. LEFEVRE,  
*For France.*  
 C. T. GARDNER,  
*For England.*

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*Mr. Denby, chargé, to Mr. Gresham.*

No. 17.]

LEGATION OF THE UNITED STATES,  
*Peking, June 26, 1894. (Received August 3.)*

SIR: The Korean insurrection, and the part taken in it by China and Japan, continue to excite the utmost interest here. The insurrection itself has sunk into insignificance compared with the complications between Korea's two nearest neighbors to which it has given rise.

I am informed that more than 4,000 Japanese troops are now in Korea and that the Japanese Government is making preparations and holding itself in readiness for important movements. China, also, is increasing her forces. In addition to previous shipments, several hundred soldiers left Taku on the 22d instant for Chemulpo, and these are but part of 5,000 that are under orders to embark.

I am informed by the chargé d'affaires of Japan that a Japanese force is now in possession of Seoul and that the Chinese are encamped 15 miles south of that city. The Japanese Government does not propose to withdraw its forces until definite guarantees are given by China that it will not again interfere in Korean affairs, except as provided by the convention with Japan. This convention, executed at Tientsin in 1885, contains the following paragraph:

In case of any disturbance of a grave nature occurring in Korea which necessitates the respective countries, or either of them, to send troops to Korea, it is hereby understood that they shall give, each to the other, previous notice in writing of their intention so to do, and that, after the matter is settled, they shall withdraw their troops immediately, and not further station them there.

It is asserted that, in the present instance, the action of China was only communicated to Japan after it was an accomplished fact. The Chinese troops left Taku the 3d and arrived at Chemulpo the 5th instant, and it was not until this latter date, viz, June 5, that notice of their departure was given at Tokyo. Japan \* \* \* notified



China on the 7th instant that she had sent troops, which were disembarked on the 10th.

The ministers of the Yamên talk of this affair as if it were entirely in the hands of Li Hung-chang. This confirms a report, which I have from the most reliable sources, that a secret imperial edict of about ten days ago constituted the great viceroy plenipotentiary in this affair, even to the power of dictating peace or war. The edict stated, however, that war would be exceedingly to be regretted in this year of rejoicing over the Empress' sixtieth birthday.

The action of Japan is criticised here as hasty and unduly bellicose. Though there was never an international quarrel with less grounds for its justification, a conflict between the forces of the two countries seems imminent. \* \* \* The army of Japan upon a war footing is only 120,000 men, while the Viceroy Li alone has 50,000 foreign-drilled troops, armed with modern arms, and of fine discipline and efficiency. Besides these, there are many thousand foreign-drilled troops in other parts of the empire, and a practically inexhaustible supply of the old fashioned native soldiery.

It is reported to-day that the representatives of the foreign powers at Seoul are striving to avert a conflict by inducing a simultaneous withdrawal of the hostile forces.

I have, etc.,

CHAS. DENBY, Jr.

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*Mr. Sill to Mr. Gresham.*

No. 18.]

LEGATION OF THE UNITED STATES,  
Seoul, Korea, June 29, 1894. (Received August 6.)

SIR: Referring to my dispatch of June 25, I have now the honor to inform you that in response to the joint note of the foreign representatives here, addressed to the representatives of China and Japan at this place, and suggesting to them the advisability of a simultaneous withdrawal of their respective military forces, a copy of which note I inclosed with my No. 16, we received on the next day, June 25, a reply, as per inclosed copy, from Mr. Otori, stating that he would communicate our suggestion to his Government. The same day we also received a reply in the same sense from Mr. Yuan. (See inclosed copy.)

The following day, the 26th, Mr. Yuan sent us another letter (see copy inclosed), stating that at 3 a. m. that day the grand council of his Government, which includes the Emperor, had considered our communication, but were compelled to say that, as Japan had refused to withdraw her troops from Korea, the troops of China must remain.

I have heard since, on good authority, that the Empress of China has decided to set aside the 60,000,000 taels, collected for her sixty-first birthday anniversary celebration, to be used in putting down this trouble, and that no celebration shall take place till this matter is settled.

The Japanese troops have occupied the hills and all other strategic points about Seoul. They also have complete control of the river from Seoul to Chemulpo and the roads leading to and from these points, so that the Chinese will meet with very effectual opposition when they arrive.

I have now to state also that at the urgent request of His Majesty I have agreed to grant asylum to the royal family and other high officials if it becomes necessary, at the same time deprecating any such change

of location by the heads of the Government, unless it becomes absolutely necessary.

In view of this event, I have finally persuaded Admiral Skerrett to increase the guard promised me from 12 to 120 men, as the former number would be quite inadequate for the protection of the legation alone. A conflict may be expected at any time. More Japanese troops are arriving almost daily, and the Chinese Government is reported to be actively engaged in massing and equipping an adequate force. On the 26th instant Mr. Otori had an audience with His Majesty, in which he presented a paper, by order of his sovereign, stating that Japan found it necessary, for the mutual welfare of the two countries, to ask that certain radical changes be made in the government and policy of Korea, such changes to be made upon consultation with the Japanese authorities, and that until these changes are made in a manner satisfactory to Japan the Japanese troops would not be withdrawn. (See copy inclosed.)

I may add that Japan seems to be very kindly disposed toward Korea. She seems only to desire, once for all, to throw off the yoke of Chinese suzerainty, and then to assist her weak neighbor in strengthening her position as an independent State, by aiding her in such reforms as shall bring peace, prosperity, and enlightenment to her people, a motive which pleases many Korean officials of the more intelligent sort, and one which I imagine may not meet with disapproval in America.

I have, etc.,

JOHN M. B. SILL.

[Inclosure 1 in No. 18.]

*Mr. Otori's reply to the joint note from the Foreign Representatives at Seoul.*

HIS IMPERIAL JAPANESE MAJESTY'S LEGATION,

*Seoul, June 25, 1894.*

SIR: Acknowledging the receipt of your note of to-day's date, suggesting me, under request of Korean Government and as friendly office, the solution of the present situation by withdrawing simultaneously the Japanese and the Chinese troops from Korean territory, I have the honor to respectfully express my sincere thanks for your advice and your magnanimous act. But I regret to state herein that, the withdrawal of Japanese soldiers being entirely in the option of the Japanese Government, the only course open to me is to convey your note to the notice of my Government, as requested, and which I shall not fail to do in the earliest opportunity. I also have the honor to add in this connection that my views being entirely in accord with yours in preserving peace and order in this capital, and in continuing the amicable relations among us altogether, I have already taken due steps to recommend my Government in order to arrive at the end desired by all concerned.

I have, etc.,

K. OTORI.

(Addressed to all the foreign representatives at Seoul.)

[Inclosure 2 in No. 18.]

*Mr. Yuan to Foreign Representatives.*

22 DAY, 5 MOON, 20 YEAR OF KWANG-HSÜ (June 25, 1894).

SIR: I have the honor to acknowledge the receipt of your joint communication on the 22d of fifth moon of this year.

(Dispatch quoted in full.)

In reply, I have the honor to inform you that I telegraphed immediately to my Government these facts, and I will inform you after I get an answer from my Government.

I have, etc.,

YUAN SHI-KAI.

(Addressed to all the foreign representatives at Seoul.)

[Inclosure 3 in No. 18.]

*Mr. Yuan to Foreign Representatives, transmitting communication from the Chinese Government.*

23 DAY, 5 MOON, 20 YEAR OF KWANG-HSÜ (June 26, 1894).

SIR: Referring to your joint communication of the 22d of fifth moon of this year (June 25), I had immediately replied, in which I also said that I would telegraph to my Government of the fact.

I have the honor to inform you that I have received a telegram from my Government as follows:

Regarding the Chinese troops sent out to Korea, by the invitation from the Korean Government to help in the extermination of the rebels. On the arrival of the troops, we were informed that the city of Chun Chu had been recaptured and the rebels were all dispersed; the Government was going to withdraw the troops from Korea, but great numbers of Japanese troops coming out to Korea and remaining in the capital and Chemulpo, they seem to remain longer. As this concerning to the agreement between China and Japan which was made at Tien-Tsin in the eleventh year of Kwang-hsü (1885), the troops of two nations should be withdrawn at the same time. The instructions having been given to refer the matter to the Japanese Government, and this already has been done, but the Japanese Government did not agree to it. My Government also considering very much upon the condition of the people of all the friendly nations, but we are not possible to withdraw our troops, but the Japanese do not agree to withdraw. We are grateful for the amicable arrangements endeavored to be made by the representatives of all friendly nations in Korea in this case.

I have, etc.,

YUAN SHI-KAI.

(Addressed to all the foreign representatives at Seoul.)

[Inclosure 4 in No. 18.]

*Memorial of Mr. Otori (minister from Japan) to His Majesty the King of Korea.*

(Delivered at audience, June 26, 1894.)

Your Majesty's virtuous rule is daily progressing, and the people of your Kingdom are being reformed [improved]. I am respectfully appreciative of the fact that the administration of His Majesty is all-pervading throughout the Kingdom.

Regarding the troubles in the south, the rebels could not be restrained, as they are ignorant and stubborn, so that they began at once atrociously to oppose their officials. The Government was even compelled to send down soldiers in order to reduce them; but as it was found very difficult to suppress them, as a last resort assistance was asked from a [the] neighboring country.

As soon as my Government heard of this, and for this reason, His Majesty the Emperor directed me to return to my post with some



troops for the protection of his legation and Japanese subjects. He also instructed me to lend assistance in promoting good conditions and in suppressing evil; also to give any aid, if there should be anything required in the case, in order to maintain friendship between our two neighboring countries (Japan and Korea).

On my arrival in Seoul I was informed that the city of Chun Chu had been recaptured, and that the rebels were dispersed, and that, therefore, the soldiers will be withdrawn and good order will again reign.

This is good for Korea, both in her internal and in her external relations, since it is shown that the virtuous action and authority of His Majesty is thus able to pervade the whole realm.

As Japan and Korea are both situated in the eastern part of Asia, and their boundaries are very close to each other, they are thus not only mutually dependent, but from ancient times we have exchanged missions between our two countries for the maintenance of friendship, as may be found from history.

It is the custom at present, as we can see, for the nations of the earth to make themselves as prosperous and strong as possible by attending closely the administration of politics, education, laws, finances, the encouragement of agriculture, and the promotion of commerce. In this way they make themselves strong and important among the nations. Then, if Korea alone remains bigotedly attached to ancient customs, giving no consideration to the changed conditions of the present day, and neglects the intelligent exertion necessary for the maintenance of independence, how can she stand alone [independent] among the nations? Therefore [in view of Korea's danger], I am instructed to express these considerations to your high officials at a council and [endeavor] to induce the Government of Korea to adopt a policy which will make her prosperous and strong; then the friendship between our two nations may be maintained, and we may continue mutually dependent.

I sincerely hope that Your Majesty will earnestly consider this memorial and give instructions to your minister of foreign affairs, or to an especial commission to meet me in council, that I may fully explain my meaning and intention. And [I trust that] you may not be led to disregard this attention [kind thought] of my Government for a friendly nation. Then will the present weighty condition [strained relations] take on a more fortunate aspect.

I earnestly hope that this [favorable] result may be attained.

Wishing to His Majesty long life, happiness, and prosperity.

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*Mr. Sill to Mr. Gresham.*

No. 19.]

LEGATION OF THE UNITED STATES,  
Seoul, Korea, July 2, 1894. (Received August 5.)

SIR: Continuing the subject of military operations in Korea, I have now to inform you that on the 28th instant Mr. Otori demanded a declaration, to be given the next day by the Korean foreign office, as to whether Korea is tributary to China or not.

This caused great consternation, as, if they answered in the negative they would offend China, while an affirmative answer might bring down the wrath of Japan. After many consultations and several reminders

to be prompt from the Japanese, an answer was given in this sense: "Korea being an independent State, enjoys the same sovereign rights as does Japan" (see treaty of Kang-hua, 1876),<sup>1</sup> and that in "both internal administration and foreign intercourse Korea enjoys complete independence" (see letter of the King to the President of the United States).<sup>2</sup> They suppose that by thus quoting the treaties which China allowed them to make she can not take offense, while Japan should be content with such answer. I hear, in fact, that the Japanese are quite pleased with the reply.

I have, etc.,

JOHN M. B. SILL.

*Mr. Ye Sung Soo to Mr. Gresham.*

No. 20.]

LEGATION OF KOREA,

Washington, July 5, 1894. (Received July 5.)

SIR: I am just in receipt of a telegram stating that—

The foreign representatives at Seoul have had a meeting. The Japanese minister declines to withdraw Japanese troops. Please ask the President of the United States to adjust the difficulty.

May I ask that you promptly inform me of any information you may receive relating to affairs in Korea which you can communicate to me.

Accept, etc.,

YE SUNG-SOO,

*Minister Resident for Korea.*

[Inclosure 1 in No. 20—Telegram.]

*The Korean Government to Mr. Ye Sung-Soo.*

THE PALACE, June 28, 1894.

The Japanese minister called at the palace to-day and requested me to instruct our prime minister or the president of the foreign office to have a meeting and change our political system. It seems to be a serious condition of affairs, and he refuses to withdraw Japanese troops.

<sup>1</sup> See Article I of the treaty between Korea and Japan signed at Kang-hua February 26, 1876.

<sup>2</sup> Forwarded to the Secretary of State by Commodore R. W. Shufeldt in his dispatch of May 29, 1882. This letter reads as follows:

"The King of Ta Chao-hsien Kuo (Korea) makes a communication to the President of the United States:

"The Chao-hsien country (Korea) is a dependency of China, but the management of her governmental affairs, home and foreign, have always been vested in the Sovereign.

"Now, as the Governments of the United States and Korea are about to enter into treaty relations, the intercourse between the two nations shall be carried on in every respect on terms of equality and courtesy, and the King of Korea clearly assents that all the articles of the treaty shall be acknowledged and carried into effect according to the laws of independent states.

"In the matter of Korea being a dependency of China any questions that may arise between them in consequence of such dependency, the United States shall in no way interfere. The King has accordingly deputed commissioners for the purpose of negotiating the treaty, and now, as in duty bound, addresses this communication for the information of the President of the United States.

"A necessary communication. Dated the 291st year of the founding of Ta Chao-hsien Kuo (Korea), and the 28th day of the third moon of the eighth year of the reign of Kuang-hsi."

See also the note of the Tsung-li Yamèn to Mr. F. F. Low, in Foreign Relations of the United States for 1871, p. 112.

See the Secretary of State promptly and explain to him the importance of a powerful conference to adjust the difficulty and avert a conflict.

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[Inclosure 2 in No. 20.]

*Korean Government to Mr. Ye Sung-Soo.*

THE PALACE.

The Chinese and Japanese troops remain in Korea. The ministers of foreign countries are to have a conference on the subject of the present condition of affairs; respectfully ask the Government of the United States to instruct its representatives in China, Japan, and Korea to use their efforts in averting any conflict, and ask that the troops of the respective countries be withdrawn as speedily as possible.

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*Mr. Denby, chargé, to Mr. Gresham.*

No. 21.]

LEGATION OF THE UNITED STATES,  
Peking, July 6, 1894. (Received August 16.)

SIR: I have the honor to confirm my telegram of the 3d instant, as follows:

Korea situation critical; hostilities imminent. Chinese Government shows conciliatory attitude in spite of aggressive action of Japan, and asks good offices of England, Russia to secure peaceful solution.

Mr. O'Connor, Her British Majesty's minister, asked me to telegraph you requesting that the United States Government take the initiative in uniting the other great powers in a joint protest at Tokyo against the commencement of hostilities by Japan. He said that he was in communication with the Yamên and that he knew such action would be acceptable to China and the other powers. I declined to do so unless the Tsung-li-Yamên requested it. I felt it my duty, however, to advise you of the critical condition of affairs at the date of my telegram and of China's attitude with reference thereto.

The latest advices that have reached Peking indicate that a disposition to resort to diplomatic methods instead of violence is showing itself and that a peaceful solution of the controversy is probable.

I have, etc.,

CHAS. DENBY.

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*Mr. Denby, chargé, to Mr. Gresham.*

No. 22.]

LEGATION OF THE UNITED STATES,  
Peking, July 8, 1894. (Received August 24.)

SIR: I have the honor to state that I received last night from Mr. Read, United States consul at Tientsin, a telegram as follows:

Viceroy desires legation telegraph Washington to take initiative urging powers to unite request Japan Government to have Japanese troops withdrawn Korea.

In compliance with this request, which I did not feel at liberty to refuse to bring to your attention, I telegraphed you to-day as follows:

The Viceroy Li requests the United States to take the initiative urging powers to unite in request to Japan to withdraw troops Korea.

I have, etc.,

CHAS. DENBY, Jr.



*Mr. Sill to Mr. Gresham.*

[Telegram.]

Nos. 23 and 24.]

SEOUL, July 8, 1894.

Admiral left on the 2d, against my judgment. Received his notice the day after his departure. He said that, according to instructions from the Department, he has ordered *Monocacy* to relieve him, and said that she is expected hourly. I am not yet advised of their sailing. I had promised the King asylum in case of emergency. Admiral's departure places me in a humiliating and most perilous position. The minister at Washington communicated by telegraph to this Government that you have advised them to protest against the demand of [the] Japanese Government, made under duress, and to notify the foreign ministers.

*Mr. Gresham to Mr. Sill.*

[Telegram.]

No. 25.]

WASHINGTON, July 9, 1894.

Your telegram of yesterday received. I told Korean minister here this Government could not intervene forcibly. I did not advise him that Korea should protest and notify foreign powers.

*Mr. Denby, chargé, to Mr. Gresham.*

No. 26.]

LEGATION OF THE UNITED STATES,

Peking, July 13, 1894.

SIR: The condition of affairs between the three Kingdoms seems practically unchanged. The Japanese are reported to have withdrawn their merchant steamers from the northern lines, the inference being that they are to be used for transporting troops and supplies. An indication, however, of a more friendly attitude on the part of Japan is the fact that the Japanese chargé d'affaires at Peking was yesterday received in audience by the Emperor of China, for the purpose of thanking His Majesty for his congratulations to the Emperor of Japan on the occasion of the twenty-fifth anniversary of his marriage.

The Viceroy Li is reported to have applied to the Emperor for authority to raise a large loan for military purposes. \* \* \*

I have, etc.,

CHAS. DENBY.

*Mr. Sill to Mr. Gresham.*

No. 27.]

LEGATION OF THE UNITED STATES,

Seoul, July 18, 1894. (Received August 23.)

SIR: Referring to my four dispatches regarding military operations in Korea, I have the honor to inform you that as no new Chinese troops have been sent to Korea no fighting has as yet taken place. More

Japanese troops have arrived, some 15,000 in all, with 3,000 coolies additional for transportation. The Japanese merchant vessels have been taken off the lines between Japan and Korea for use as transports, thus making communication with the outside world very difficult. As a rule, the Japanese troops have conducted themselves in an orderly manner, in this way and by the conciliatory conduct of the Japanese authorities winning considerable favorable sentiment from the Koreans.

One unfortunate act was the forcible interference with Her Britannic Majesty's representative near a Japanese camp, as I cabled you yesterday. (See my dispatch of July 17.) I now have the honor to inclose the correspondence on this subject exchanged between the Japanese and English representatives.

In this connection I will also allude to a correspondence, copies of which I inclose, between the Japanese and British Governments and their representatives here relative to a charge made by Mr. Gardner to his Government in London that Mr. Otori had demanded the dismissal of the English naval instructor in the employ of this Government. I inclose a copy of Mr. Otori's suggestions [demands] for reforms, that you may judge for yourselves as to where the blame should rest. The presentation of these demands, or rather suggestions, by Mr. Otori, has been the chief occurrence of importance since my last writing.

Mr. Otori had asked in audience (see my No. 16, June 29), that a council be appointed to consider certain proposals he wished to make. As the appointment of this council was delayed, the Japanese minister finally demanded that the appointment be made in three days. I was asked for my advice, which was that they grant the council with powers only to listen and report upon the demands of Japan. The inclosure above was the result. To this, also upon my advice, the Government made answer that while many of these proposals were in accordance with the line of policy endeavored to be pursued for the past ten years by Korea, they could not accept them now in the face of the military occupation of their country. Meantime the King has appointed a large and influential council of his own to consider reforms that they should make themselves, and already they have decided to strike off all needless taxes, such as have been levied during the past ten years a personal perquisites.

We have had several meetings at the foreign office, in which the foreign representatives endeavored to arrange for the neutrality of Chemulpo, a proposition to which the Chinese readily consented, but the Japanese made such conditions as would preclude any idea of neutrality.

Mr. Waeber, Russian representative here, whose departure for duty in Peking I mentioned in my No. 12, June 1, has suddenly returned to his post here. I appreciate his wisdom and long experience very highly.

I have also to report in this connection, the arrival, on the 12th, of the U. S. S. *Monocacy* at Chemulpo. Commander Impey seems desirous of cooperating with me in doing everything necessary for the due and proper protection of American interests.

I hear a report from outside, but reliable sources, that the *Baltimore* arrived at Chemulpo yesterday.

We anticipate action on the part of the Chinese in a few days, as soon as the imperial birthday ceremonies are completed. Chinese men and merchants have nearly all left for China on orders from their officials.

The present trouble is bringing to the front some very useful young men, notably Ye Cha-yun, who was for four years in charge of the

Korean legation at Washington. He has been appointed an officer of the third rank and a vice-president of the foreign office.

I have, etc.,

JOHN M. B. SILL.

[Inclosure 1 in No. 27.]

*Mr. Gardner to Mr. Otori.*

SEOUL, July 15, 1894.

SIR: I have the honor to inform you that this afternoon I went for a walk a little to the right of Yang-wha chin road with my wife, Mr. Brown, and my secretary, Mr. Fox.

When Mr. Fox and I were in front on a public path we were assaulted by some Japanese in military uniform. One person spoke a little French and asked our names. I demanded his name, and he gave it as Sous Lieutenant T. Ishido. I then gave him my name and title in English and Chinese, writing them down, with a protest that I yielded to force majeure. After giving my name and title, without the slightest provocation, and though I stated I would yield to force majeure and do what was wished, we were dragged about 50 yards and I was all the time being struck with the fists by Japanese wearing military uniforms.

I was then let go and joined my wife and Mr. Brown. About a quarter of an hour afterwards I was on my way home along a public road when a quantity of Japanese dressed in military uniform rushed forward, blocked the public way, and stopped us, and again demanded my name. I recognized some of them as some of the men who had previously assaulted me. I yielded to force majeure and again gave my name, but in spite of that Mrs. Gardner was hustled and her chair pushed from the road into the ditch.

I have, etc.,

C. T. GARDNER,

*Her Majesty's Acting Consul-General.*

[Inclosure 2 in No. 27.]

*Mr. Otori to Mr. Gardner.*

SEOUL, July 15, 1894.

SIR: Referring to your note of to-day's date respecting the assault said to have been made against you and some others by some Japanese in military uniforms, I have the honor to assure you in the first instance that I have taken immediate steps to investigate the case.

I have, etc.,

K. OTORI.

[Inclosure 3 in No. 27.]

*Mr. Otori to Mr. Gardner.*

HIS IMPERIAL JAPANESE MAJESTY'S LEGATION,

Seoul, July 17, 1894.

SIR: In reply to your note of the 15th instant, about the matter of assault said to have been committed by some Japanese in military uniform against you, your wife, and two other gentlemen, I have the



honor to forward you herewith the translations of the report sent me in answer to my inquiry from General Oshima, in command of the Japanese armies in Korea.

He added, in sending that report to me, that there was no semblance of any fact that the Japanese soldiers struck any foreigners with the fist, that they have blocked the passage on the public way, and that no lady was ever hustled, nor her chair pushed from the road into the ditch; in fact, no lady having been perceived by the soldiers.

I have, etc.,

K. OTORI.

[Inclosure 4 in No. 27—Translation.]

*Report of General Oshima to Mr. Otori in regard to the complaint of Mr. Gardner, British acting consul-general at Seoul.*

About 6 o'clock in the afternoon of the 15th instant the sentinel posted near the river in about 100 yards from the public road, on the west side of Aben village, noticed two foreigners marching toward him from the public road across the field to the southeasterly direction. The sentinel, of the name of Maltashi, told them to stop and showed by gesture; but as the foreigners proceeded in spite of the remonstrances of the sentinel, seemingly to say that they did not understand the Japanese, the latter barred them with a rifle in hand, at the same time reporting the matter to the tent. Meanwhile the foreigners forced aside the sentinel and entered into the bivouac. Seeing what was going on there, Corporals Arada, Machaea, and Adachi also came to stop them, but they forced in.

When these foreigners got into the bivouac they were again told by a sentinel that they were not allowed to be there, but they, maybe, perhaps, because they could not understand what the sentinel said, behaved in a heedless manner, without paying the slightest attention to the remonstrance.

Lieutenant Gato then ran up to them from the tent, and stopped and asked them why they have entered into the bivouac.

They said that they were taking a walk. Then the officer told them that nobody is allowed to enter into the bivouac and asked them to go away at once. The foreigners yet refused to listen.

Thereupon came Sublieutenant Tshido and Sergeant Tshii, who, with Lieutenant Gato, made all these efforts by words and gestures to tell the foreigners to go away.

At last the foreigners were led out of the bivouac by a guide, after having given the name hereto affixed.

My name is Chr. T. Gardner, C. M. G., Her Majesty's consul-general, Seoul.

[Inclosure 5 in No. 27.]

*Mr. Otori to Mr. Gardner.*

HIS IMPERIAL JAPANESE MAJESTY'S LEGATION,  
Seoul, July 16, 1894.

SIR: I have received this morning, to my great surprise, a telegram from our minister for foreign affairs conveying the telegram from His Imperial Japanese Majesty's minister at London that Her Britannic

Majesty's foreign office received a telegram from you that I have demanded Korean Government to dismiss the naval instructor to Korea, Mr. Collwell. I am also informed that a telegram to the same effect has been sent by you to Her Britannic Majesty's legation in Tokyo.

I have now the honor to demand of you the immediate and thorough contradiction of your telegram above mentioned, because I have never made such a demand to the Korean Government.

I can not help in this connection expressing my deep regret for your having taken such a hasty step in regard to an affair of such grave importance without previously letting me know of the matter.

I have, etc.,

K. OTORI.

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[Inclosure 6 in No. 27.]

*Mr. Gardner to Mr. Otori.*

JULY 17, 1894.

SIR: I have to acknowledge receipt of your letter of yesterday's date.

I would suggest that you should apply through usual channels for any information you may desire as to the communications made by me to my Government.

I have, etc.,

C. T. GARDNER,  
*Her Majesty's Acting Consul-General.*

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[Inclosure 7 in No. 27.]

PAPER PRESENTED TO THE THREE KOREAN OFFICIALS BY MR. OTORI.

The urgent demands for putting these things into operation is made as advice by my Government, but your Government has a perfect right to take the advice or not.

*Matters to be discussed within three days and to be decided and put into operation within ten days.*

I-A. Reorganization of the duties and service of the several officers in the various departments.

The affairs concerning internal administration and external relations according to the old system belong to the head government, but the presidents of the six departments ought to have their respective duties and responsibilities, and the old custom of having one influential man to govern and interfere with the duties of the others must be abolished.

The persons comprising the household department of His Majesty shall not be heard in the administration of national affairs, and the organization of that department shall be distinctly separate from any departments governing the nation.

I-B. The management of commercial intercourse and friendly relations with foreign nations is very important and must be carefully administered; therefore, the minister of that department must be a man who has great influence and can bear heavy responsibility.

I-F. The former method of selecting officers shall be abolished, so that a large range may be opened for making selection of proper persons.

I-G. The payment of money for official appointment is the source of corruption and must be decidedly prohibited and abolished.

I-J. The custom of officers, whether high or low, hunting for money or bribes must be prohibited by new laws.

II-F. The public roads and highways must be widened and improved and railroads built between Seoul and other important places to the harbors and telegraphic lines connected between districts and commercial places in every province, so that facilities for travel, transportation, and communication may be afforded.

The railroads and telegraph lines are to be discussed upon within ten days, but work on the same to be begun when materials are procured.

*Matters to be discussed and put into operation within six months.*

I-C. In the reorganization of the different bureaux the nominal ones ought to be abolished or combined with others.

I-D. The present number of the districts is too great, so they must be combined and new limits made to them, so that their number will be diminished and the expenses of their administration lessened without interfering with the good of the service.

I-E. The superfluous officers, whether high or low, should be dismissed.

I-II. The amount of the salaries of each of the officers, high or low, shall be fixed according to modern custom and made sufficient for them to live properly.

I-J. The custom of officers, whether high or low, of districts levying money for private purposes must be stopped by newly enacted laws.

II-A. The receipt and disbursement of the Government must be critically settled and examined according to a regular system of accounts.

II-B. The method of keeping books and accounts of receipt and disbursement must be strict, clear, correct, and exact.

II-C. The monetary system must be changed and definitely fixed.

II-E. The unnecessary minor expenses must be diminished and ways of increasing the revenue must be sought out and examined.

II-G. The custom-houses and business in the commercial harbors of each province must be under the Government of Korea without any interference of any other nation.

*Matters to be discussed and put into operation within two years.*

II-D. The farming land of each province must be clearly numbered and surveyed so as to make a proper basis for taxation.

II-. Surveying the farming land so as to make a proper basis for taxation for the reformation of the national revenue.

II-F. The public roads and highways must be widened and improved.

III-A. The ancient laws not in accordance with modern custom must be abolished and the laws remodeled according to such new custom.

III-B. The administration of justice must be changed and the law department must be made just and correct.

IV-A. Military officers must be educated.

IV-B. The old system of navy and army must be abolished, and the soldiers drilled by the modern system of tactics to the extent that the national revenue can afford.

IV-C. The organization of the police-force system is very important, so stations must be established in Seoul and every town, and the rules for the police strictly fixed.

V-A. Every branch in education must be changed and modern methods adopted, and primary schools established in each district, so that all the children may be educated.

V-C. Bright men from among the scholars must be selected and sent to foreign countries to learn all branches of education and to acquire knowledge of arts and sciences.

[NOTE.—The above is an unofficial translation, and while it may not be critically correct, it is believed to be substantially so.]

*Mr. Gresham to Mr. Bayard.*

No. 28.]

DEPARTMENT OF STATE,  
Washington, July 20, 1894.

SIR: I regret that the situation in Korea and the relations between China and Japan have not improved since the Department's instruction of the 7th instant was sent to Mr. Dun, the text of which was cabled to you on the 14th. War between Japan and China, with its attendant misery in Korea, seems not improbable. The following statement will enable you to understand more clearly what has occurred here and the extent to which this Government has exercised its good offices in the interest of peace:

The Government of Korea, through its minister at this capital, having represented that its independence was seriously menaced by the



presence within its borders of large bodies of Japanese and Chinese troops; that it was unable to defend itself, and that in its great peril it desired the disinterested advice and friendly intervention of this Government, an instruction was cabled to Mr. Sill, our minister to Seoul, on the 22d ultimo, directing him to exert such influence as he possibly and fairly could to avert the Korean Government's apprehended danger. Two days later Mr. Sill replied that the revolution which for some time had existed in Korea had been suppressed by that Government, but that thousands of Chinese and Japanese troops still occupied the country; that their presence was a serious menace to Korean integrity; that China favored the simultaneous withdrawal of both armies, but Japan, seemingly meditating war, refused, and that Korea earnestly desired the United States should intervene for her protection.

On the 28th ultimo the Korean minister again appeared at the Department, and imparted the information that the Japanese minister at Seoul had called at the palace and requested that political changes be made in the Korean Government, at the same time stating that Japan would not withdraw her troops until such changes had been made; that, being unable to resist Japan, Korea relied on the disinterested friendship of the United States, and that he was instructed to explain to this Government the importance of a conference of neutral powers to adjust the pending difficulties and avert war. A few days later the minister made a third visit to the Department, by direction of his Government, and requested that the representatives of the United States in China, Japan, and Korea be instructed to exert themselves in the interest of peace in Korea, and to ask that the Japanese troops be speedily withdrawn from that country. At these interviews I informed the minister that while the United States sympathized with his Government and desired to see its sovereignty respected, we must maintain toward it and the other powers an attitude of impartial neutrality; that our influence could be exerted with Japan only in a friendly way, and that in no event could we intervene jointly with other powers.

On the 28th ultimo our minister at Tokyo telegraphed that the situation in Korea and the relations between the Governments of Japan and China were very critical, but that Japan expected an amicable adjustment, and the day following Mr. Dun again telegraphed asking if the United States would use their good offices to protect the Japanese archives and subjects in China, in case Japan withdrew her minister from Peking. Mr. Dun was promptly instructed that if the Japanese Government should take the step indicated the request would receive the President's friendly consideration, but it could not be granted without the assent of China.

At the conclusion of a brief conversation with the Japanese minister a few days later on another subject, I referred to the unfortunate situation in Korea, as I understood it, and informed the minister of the earnest desire of that Government that the United States should make an effort to induce Japan and China to withdraw their troops from Korean territory. The minister replied that the rebellion in Korea was caused by maladministration and official corruption, and that his Government would not withdraw its troops until needed reforms in the domestic administration of Korea had been made. I remarked that in view of the exceptionally cordial relations which for many years had existed between our Governments I felt at liberty to say that it would be very gratifying to the United States if Japan would deal kindly and fairly with her feeble neighbor, whose helplessness enlisted our

sympathy. I further remarked that this Government cherished sentiments of sincere respect for both Japan and China, and that the former's apparent determination to engage the latter in war on Korean soil was nowhere more regretted than here. The minister replied that his Government did not covet Korean territory; that its demands were in the interest of peace and that he admitted Korea was an independent sovereign state.

On the 29th ultimo Mr. Dun was instructed to ascertain Japan's reason for sending a military force to Korea, and what demands, if any, were expected to be enforced thereby.

On the 5th instant Mr. Dun replied that after the first troops had been sent under the convention of 1882,<sup>1</sup> Japan learned of the dispatch of large bodies of Chinese troops, which necessitated an increase of the Japanese force; that the rebellion was due to official corruption and oppression; that Japan had asked as a guarantee of future peace that radical administrative reforms be made in Korea, and had proposed joint action to that end with China, which offer that Government had refused; that disclaiming designs upon Korean territory, Japan would carry out such reforms in defiance of China, and that the good offices of the United States at Peking and Tokyo might reopen negotiations.

On the 3d instant a telegram was received from Mr. Denby, our chargé d'affaires ad interim at Peking, saying that the Korean situation was critical; that hostilities were imminent; that the attitude of China was conciliatory in spite of the aggressive action by Japan, and that China had asked the good offices of England and Russia for a peaceful settlement.

On the 8th instant the British ambassador read to me an instruction he had received from Lord Kimberley, directing him to ascertain whether the United States would unite with Great Britain in an intervention to avert war between China and Japan. Being furnished with no copy of the instruction, I give the substance of it from memory. The ambassador expressed the belief that only friendly intervention was contemplated. I informed him that this Government could not intervene otherwise than as a friendly neutral; that it had already so intervened with Japan, and I did not think the President would feel authorized to go further in the exercise of our good offices. The next day I handed the ambassador a copy of the instruction sent to Mr. Dun on the 7th, at the same time informing him that this Government could not join another power even in a friendly intervention.

On the 11th instant Mr. Dun telegraphed that, after communicating the substance of the Department's instruction of the 7th to the Japanese Government, he was informed that the Japanese troops were not kept in Korea to make war on that country, but to insure order, Korean independence, and to prevent a recurrence of rebellion; that Japan desired the removal of official corruption, speculation, and misgovernment, the real causes of discontent; that China's equivocal attitude prevented Korea from adopting needed reforms, thus endangering the peace of the East; that the insurrection had not been entirely quelled; that, while anxious to withdraw her troops, Japan would do so when, and not before, future order was insured; and that war with Korea was not apprehended.

On the 8th instant our chargé d'affaires in Peking informed the Department that the viceroy requested the United States to take the

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<sup>1</sup>See Foreign Relations of the United States for 1885, p. 343.



initiative in urging the powers to unite in a request to Japan to withdraw her troops from Korea.

On the 13th the Chinese minister at this capital visited the Department by appointment and informed me that he was directed by the viceroy to bring to the attention of the United States the fact that by the presence of a large force of troops in Korea, Japan was endeavoring to induce the Government of that country to change its domestic administration; that China had proposed the simultaneous withdrawal of all foreign troops, which offer Japan had declined; that he was instructed by the viceroy to express the hope that this Government would instruct its minister at Tokyo to unite with other diplomatic representatives there in a joint effort to influence Japan to abandon her warlike purpose against China. The minister further said that China's policy was one of peace, and that she did not desire to engage in war with Japan or any other power. I replied that the United States desired to continue and strengthen friendly relations with both China and Japan; that while we earnestly hoped to see those Governments remain on terms of peace, we could not intervene between them otherwise than with our good offices; that we had neither the right nor the inclination to go further; that by direction of the President I had already, through our minister at Tokyo, made a strong but friendly representation to Japan in the interest of peace, and did not see that we could do more; and that we could not unite with other powers in any kind of an intervention. The minister repeated that Japan refused to withdraw her troops until the above-named reforms had been made; that he feared war was inevitable unless the powers exerted strong influence upon Japan, and asked what I thought of the situation, and whether I could make a suggestion that would improve it.

I replied that from information received from Mr. Dun and other sources I was slow to believe that Japan would resort to war, and that a course was open to China which had been adopted by other powers, namely, an offer to settle the controversy by friendly arbitration.

I am, etc.,

W. Q. GRESHAM.



*Mr. Sill to Mr. Gresham.*

No. 29.]

LEGATION OF THE UNITED STATES,  
*Seoul, July 24, 1894.*

SIR: Referring to my dispatches of June 25 and July 2 and 16, regarding military operations in Korea, I now have to inform you that at 4 a. m. on yesterday the Japanese forces broke into and took possession of the royal palace, a number of soldiers on both sides being killed. The King was very courageous and stood his ground, quieting all by his dignified bearing.

The Japanese then compelled the presence of the ex-regent, father of the King, and bitter enemy of the Queen's party, thus seeming to wish to pit one faction against another; we fear that assassination will result.

In his distress the King asked the foreign representatives to come to see him. We decided to do so, and later in the day we went in a body to the palace, the Japanese minister having arranged for us to pass his strong guard. As a result of this meeting we decided to do the only thing we could, that is, to cable the facts to our respective Governments and ask their good offices. This will be the subject of another dispatch.

The city was in a great turmoil. Our legation began to fill up with refugees, and having no American guard our Koreans were unable to protect the gates; soon we had forty or more on the place and were unable to exclude others.

The telegraph to Chemulpo was cut, but the Japanese minister kindly agreed to forward a message for me to Captain Day, of the *Baltimore*, over his military line. I also sent a fast courier with a letter, having been furnished a Japanese military pass for him to go through the lines. The courier returned in twenty-four hours, bearing a letter from my agent in Chemulpo stating that both messages had been received and delivered on board the *Baltimore*. I have no intimation from Captain Day, however, as to his intentions.

China must resent this insult, and once her hordes begin to press across the northern border no force here will be able to stay the tide. The Chinese merchants have all left here, fearing the looting by their own troops that they say will surely follow their first success.

Captain Impey seems to think that we need no guard, as the Japanese will protect us. I am quite aware that the Japanese will do this. I have had only courtesy from them and have been courteous in return. At the same time I feel that I would be violating my instructions and laying myself open to severe and merited disapproval from my Government if I should ask for a Japanese guard when I may just as well apply to my own Government forces for protection. I could not do a thing more offensive to the Government to which I am accredited, while I would render our own position very precarious by so doing, since the Chinese when they come would certainly resent our having made the Japanese position so much stronger by such action.

I have eighty American men, women, and children, of high standing in their own country, under my care here, and I feel that I must use the greatest caution in preserving a strict neutrality in all these troubles. If I do not hear from Captain Day very soon I shall cable you for assistance.

I have, etc.,

JOHN M. B. SILL.

*Mr. Sill to Mr. Gresham.*

No. 30.]

LEGATION OF THE UNITED STATES,  
*Seoul, July 26, 1894.*

SIR: Referring to my dispatch of July 24, I have the honor to inform you that I could not communicate to you by cable, as intended, the facts regarding the taking of the palace by Japanese. I have, however, written Mr. Dun and asked him to inform you by cable of the substance of my letter.

I also wish to inform you that on yesterday Captain Day, of the U. S. S. *Baltimore*, at Chemulpo, sent me a guard of 50 men under command of Captain of Marines George F. Elliott.

The arrival of this guard is very timely, as Japanese soldiers and disorderly Koreans in the garb of Japanese have been looting houses in the immediate vicinity of their legation as well as in other parts of the city. Our own lives were in danger. Also the apparent friendliness of the foreigners with the Japanese has aroused a very dangerous antiforeign feeling, and as more than half of the population of the city, including mostly the women and the better classes, have fled to the country, the city is in a very lawless condition.

The British consulate has a marine guard, and the Russian legation will receive one to-day.

We have reports of a naval engagement 30 miles south of Chemulpo, in which the Japanese sunk three Chinese vessels. A land engagement is also reported, but these are not yet authenticated. We know that a large Japanese force has gone south to meet the Chinese.

Meantime the King is acceding to the demands of Japan, as he must under the circumstances. His father is said to be now virtually regent of Korea, and a number of pro-Japanese officials have been appointed to positions of great importance.

I have, etc.,

JOHN M. B. SILL.

*Mr. Denby, chargé, to Mr. Gresham.*

No. 31.]

LEGATION OF THE UNITED STATES,  
*Peking, July 27, 1894. (Received September 11.)*

SIR: I have the honor to report that the Emperor has nominated two commissioners to investigate and report upon the Viceroy Li's conduct of the Korean business. These commissioners are Weng Tung-ho, president of the board of revenue, and Li Hung-tsau, president of the board of rites.

\* \* \* \* \*

I have, etc.,

CHAS. DENBY, Jr.

*Mr. Denby, chargé, to Mr. Gresham.*

No. 32.]

LEGATION OF THE UNITED STATES,  
*Peking, July 28, 1894. (Received September 11.)*

SIR: I have the honor to report that the Tsung-li-Yamen received yesterday afternoon a telegram from Korea announcing that the ship *Kowshing*, having on board 1,500 Chinese troops, had been fired upon by

Japanese men-of-war, near A-san (or Ya-san), on the coast of Korea, some miles south of Chemulpo, and that she had gone down, only 11 lives being saved. Amongst the drowned was Mr. von Hanneken, a German military officer, who had been many years in the viceroy's service as military instructor.

The ship *Kowshing* was the property of the Indo China Steam Navigation Company and flew the English flag. She was chartered on or about the 16th instant by the Chinese Government to be used as a dispatch boat. The agreement between the company and the Chinese Government was that she should be sailed under the British flag as long as it should be safe to do so; if captured, the purchase money already agreed upon was to be paid to Messrs. Jardine, Matheson & Co., agents. On a formal declaration of war it was agreed that the vessel should run into the nearest Chinese port and hoist the Chinese flag. She was under the English flag when fired on yesterday.

It is not known what incidents preceded this act of violence on the part of the Japanese nor how it is regarded by the British authorities. The effect can hardly be other than an immediate declaration of war between China and Japan. At this moment the Japanese chargé d'affaires is still in Peking and has no orders to withdraw.

The Chinese Telegraph Administration refuses to transmit cipher telegrams unless sealed by the Tsung-li-Yamèn.

I have, etc.,

CHAS. DENBY, Jr.

*Mr. Denby, chargé, to Mr. Gresham.*

No. 33.]

LEGATION OF THE UNITED STATES,  
Peking, July 30, 1894. (Received September 12.)

SIR: On the 28th instant the Tsung-li-Yamèn, in an official dispatch of which I inclose a copy herewith, advised me that Japan had now commenced hostilities. They asked me to convey this information to you and to request you to telegraph to the United States minister at Tokyo, their intention being to have him at once take under his protection the subjects of China in Japan.

On the same day I telegraphed you as follows:

Yamèn announces outbreak of hostilities; requests instructions American minister Tokyo assume protection Chinese.

The Chinese Telegraph Administration refusing cipher telegrams, unless sealed by the Yamèn, to secure which involves much loss of time, I preferred to forward the message to you in open text.

On the 29th instant, I sent a reply to the Yamèn, of which a copy is inclosed, informing them that I had complied with their request.

The language of the Yamèn, though guarded, viz, "the Japanese have now commenced hostilities and it is difficult to say what will be the condition of affairs," is practically a recognition of a state of war. The chargé d'affaires of Japan, however, has not been asked to withdraw by China, nor has he been recalled by his own Government. For six days he has been without instructions from Tokyo, and the only inference is that telegrams directed to him are retained.

I have, etc.,

CHAS. DENBY, Jr.



[Inclosure 1 in No. 33.]

*The Tsung-li-Yamén to Mr. Denby.*

JULY 28, 1894.

Upon the 21st instant the chargé d'affaires of the United States called on the Yamén and stated that he had been instructed by telegram that, should war break out between China and Japan over the troubles in Korea, the Japanese Government would request the United States to protect Japanese residents in China in case the Government of China would consent thereto.

The Yamén replied that Mr. Wang, Chinese minister at Tokyo, had come to an understanding with the United States minister that, in event of war, the United States would be asked to give protection to the Chinese residents in Japan, and they supposed that this proposal had already been submitted to the honorable Secretary of State.

The Japanese have now commenced hostilities, and it is difficult to say what will be the condition of affairs. There are large numbers of Chinese residents in Japan. Many reside at the treaty ports and at Tokyo and vicinity, where they have their families, money, and property, and where they are engaged in business. The Government of the United States has kindly undertaken to take them under its protection, as provided by international law. For this the prince and ministers are sincerely grateful.

In sending this communication for the information of the chargé d'affaires of the United States, the prince and ministers would beg him to be good enough to advise the honorable Secretary of State, requesting him to issue telegraphic instructions to the minister of the United States at Tokyo.

[Inclosure 2 in No. 33.]

*Mr. Denby to the Foreign Office.*

JULY 29, 1894.

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to acknowledge the receipt of your dispatch of yesterday, in which you refer to our interview of the 21st instant, and to the protection by the United States of the citizens of China and Japan in each other's territory in case of war.

You state that "the Japanese have now commenced hostilities, and it is difficult to say what will be the condition of affairs;" that there are many Chinese in Japan, and that as the United States has agreed to take them under its protection, you request that the honorable Secretary of State be asked to forward to the United States minister at Tokyo telegraphic instructions.

In reply, I have the honor to state that I sent yesterday to the honorable Secretary of State a telegram in accordance with your request.

I avail, etc.,

CHAS. DENBY, Jr.

*Mr. Denby, chargé, to Mr. Gresham.*

[Telegram.]

No. 34.]

PEKING, August 1, 1894. (Received August 2.)

War is declared. Japanese chargé d'affaires left Peking to-day. Has placed interests [of] Japanese subjects in charge of legation of the United States. Outbreak feared [at] Tientsin. Request war vessel.

DENBY.

*Mr. Denby, chargé, to Mr. Gresham.*

No. 35.]

LEGATION OF THE UNITED STATES,  
*Peking, August 2, 1894. (Received September 12.)*

SIR: Referring to the last words of my telegram of the 1st instant, to the effect that outbreaks were feared at Tientsin and requesting a war vessel, I have the honor to state that the desirability of having an American gunboat at that port has been repeatedly urged upon me by the United States consul and by the Japanese authorities. It seems that there are in that city more Japanese residents than at any place in China except Shanghai, and, therefore, more danger of an outbreak of popular violence which, if unchecked, will make no distinction of nationalities.

Tientsin also will be the objective point of retreat, in case of defeat, for the Chinese troops, and will be near the line of march of the Japanese troops if they attempt to take Peking.

The Yamén has promised to make every effort to preserve peace, but foreign gunboats will, for this purpose, be more efficacious than any efforts of the local authorities.

I have, etc.,

CHAS. DENBY, JR.

*Mr. Sill to Mr. Gresham.*

No. 36.]

LEGATION OF THE UNITED STATES,  
*Seoul, August 3, 1894. (Received September 13.)*

SIR: Referring to the naval engagement between Japan and China mentioned in my dispatch of July 26, I have now the honor to inform you that the Japanese unofficial report of the same, is as follows:

On July 23 three Japanese men-of-war coming to Chemulpo with an admiral on board on passing Prince Jerome Gulf met two Chinese men-of-war, who passed by without saluting the Japanese admiral, and acted in a suspicious manner.

Japanese men-of-war followed them some distance and firing took place between the two fleets. At the same time the Japanese fleet noticed a Chinese gunboat and a transport steamer with a large number of soldiers. They were stopped and boarded by a ship's boat and captain told he could not land these troops, but must follow the Japanese fleet.

This the captain agreed to, and he lowered a boat to go to the Japanese man-of-war, but was prevented from doing so by the Chinese soldiers on board.

The transport then began to move, and opened firing with rifles. Thereupon the Japanese ship fired into her and sunk her.

Three Europeans jumped overboard and were rescued by a boat which was lowered by the Japanese ship.

The Chinese gunboat, after exchanging some shots, surrendered.

The two Chinese cruisers above mentioned also exchanged shots for sometime with the Japanese fleet, when smoke and fog enveloped the whole fleet, and the Chinese disappeared, but one of the Chinese of the Canton fleet was found afterwards burning on the beach at the entrance of Prince Jerome Gulf, at which place her crew probably landed.

Two of the Japanese men-of-war received one shot each. One was struck on the boom and the other in a tank, but no men were wounded.

I also inclose a copy of the sworn statement of Major von Hanneken, a German officer in the employ of the Chinese Government, who was on the British transport *Kowshing* above referred to. His report is of great interest. He is the only one of ten European officers on board who escaped with life and liberty. He was several hours in the water before being picked up by a Korean junk.

His report in the main confirms the Japanese report, but shows further that the transport, which, by the way, was the property of the British firm, Jardine and Matheson, was flying British colors at the time, and that she was at anchor when fired into. He also shows that the men struggling in the water were fired upon by their own people on the sinking transport as well as by the Japanese soldiers.

An extensive land battle has been fought near Asan, some 40 miles south. As all telegraph communication is interrupted, our reports of this are rather vague.

The Japanese report that the battle took place on the 28th and 29th, between 3,000 Japanese and 4,500 Chinese, of which the Japanese loss was 70 killed and wounded, while the Chinese lost 1,200 and all their artillery and stores. The English give the figures as Japanese loss, 200; Chinese, 800.

The British representative here has charge of Chinese interests, as all Chinese officials have fled.

I have, etc.,

JOHN M. B. SILL.

[Inclosure in No. 36.]

*Mr. von Hanneken's statement.*

We have been favored with the following copy of the affidavit sworn by Mr. von Hanneken before the British consul at Chemulpo:

The steamship *Kowshing* left on the 23d July with a number of soldiers, all told, 1,220 men and 12 guns, besides rifles, ammunition, etc. She arrived in the morning of the 25th in sight of the islands of the Korean Archipelago outside the Prince Jerome Gulf. At this time she sighted a big man-of-war on her port bow. This man-of-war was moving very fast toward the west, about the direction of Port Arthur. She looked to me like the *Chen-Ting-yuan* type. She passed us on a great distance and we did not see any more of her. At about 7 o'clock we sighted on our starboard bow a vessel under sail bound in the direction of Chemulpo, so that she would have had to cross our bow or stern if a large man-of-war coming out from behind the island of Hsiitan, and she kept on her course for Loan-Shan. At about 8 o'clock we sighted some ten minutes later we saw first one, then two, altogether three more big ships coming out from behind the same island. All these vessels were of large iron-clad type, as far as we could make out. At about 9 o'clock we made out on the most forward vessel the Japanese flag, above which was flying a white flag. She moved rapidly toward us, and upon passing us she saluted us by dipping her flag. Our position at that time was this:

O 6

O Island

O 5

O 2 O 1 O 4

O Island

3 O

1. *Kowshing*.
2. Man of war with Japanese flag.
3. Chinese dispatch boat *Tao Chien*.
- 4, 5, 6. Other men-of-war.
- O. Island.



The ship which we had sighted under sail, and which had turned out to be the *Tsao-Chiang*, had meanwhile lowered sail and turned back in the direction of Wei-hai-Wei. If we had been somewhat uneasy about this large display of the Japanese fleet, we were quite reassured about their peaceful intentions toward us when the passing ship dipped her flag to us, and we thought that they were chasing the *Tsao-Chiang*. Ships Nos. 4, 5, and 6, which had also turned out to be Japanese men-of-war, had been following their course, and such was our position,

O Island of Hsü Tan.

O 5            O 6

O 1

O 4

O 2

O Island.

O 3

when signals were hoisted on No. 4 Japanese ship and two blank shots told us to stop and drop anchor. We did so. The next signal was, "Stop where you are or take the consequences." No. 4 Japanese ship then returned to port and approached No. 5, which was, together with No. 6, moving on. All three ships moved on probably to semaphore to each other, being puzzled what to do after recognizing the British flag on a ship which was evidently a Chinese transport. The No. 4 ship then turned up to us with all her guns run out and pointed at our ship and stopped at a distance of about a quarter of a mile. We saw a boat leave and coming toward us. The commander of the Chinese troops on board told me, and asked me to tell the captain, they would rather go down on the spot than be made prisoners.

They were very excited, and I had difficulty to appease them and to impress on them that it was utterly necessary to keep order on board as long as parleying was going on. I told Captain Galsworthy what the intentions of the commander were. The Japanese boat arrived and several officers came on board. The men in the boat were armed with rifles and sabers. The Japanese officers repaired to the captain's cabin; he had to show his papers, etc., and to prove that he really was in charge of a British vessel. He then was curtly told to follow the Japanese man-of-war. I was not present at their interview. I had told the captain to send for me if need was. I was busy keeping the commander and soldiers at peace. We had arranged (Captain Galsworthy and I) before the Japanese boat came alongside that he should insist on being allowed to return to Taku, the port from which we started, since we had started from there before any declaration of war. It seems that the Japanese parlementaire did not give any time to Captain Galsworthy to insist on anything, when he told him to follow the Japanese man-of-war, and neither did I hear of this order before the Japanese officer had left the ship. When, then, Captain Galsworthy told the result of the parley, which I interpreted to the Chinese commanders, there was a great uproar amongst them and their soldiers. They menaced with swords and rifles captain and crew and all Europeans on board in case the captain dared to get up his anchor. Again I had to do my utmost to appease their

turmoil, and then I told the captain to hoist a signal for the parlementaire boat to come back. She came, and this time I myself went to the gangway to speak with the Japanese officers.

We could not risk to let them come on board, because soldiers with rifles and swords were flocking about and surely would have made short business of them, if they had shown any signs of our giving in to their request. I told the Japanese officers who arrived on the gangway ladder with their right hand to the sword hilt: "The captain's hands are bound; he is not able to obey your order; the soldiers on board would not allow him to do so. Commanders and soldiers insist to be allowed to return to the port where they started from." The captain said: "I think that this is a just and fair request, even if war should be already declared, considering that we started in time of peace." I made sure that the parlementaire understood me. They left, saying that they would refer the matter to their captain. After the boat had arrived at the Japanese man-of-war we had to wait some time for an answer. At last a signal was hoisted, "Quit the ship as soon as possible." This could only be meant for the Europeans and crew, but there was no chance, and perhaps no intention, to follow this advice. The Chinese soldiers had taken charge of every davit. Captain Galsworthy then hoisted the signal, "We are not allowed." The only answer which we got was an answering pennant. Then we saw the Japanese man-of-war moving and coming around, leaving us quite at a miss about her intentions. She came around, and when she was at a distance of about 150 meters, exactly alongside of our port side, she stopped. I saw a torpedo leaving from her torpedo port, and immediately afterwards all six guns opened fire.

They discharged their guns once before the torpedo arrived at its aim. It hit the ship amidships, probably exactly at her coal bunkers. The day became night, and coal, splinters, and water were filling the air. I believe we then all jumped and swam. When swimming I saw the ship going down. She went stern first. During this the firing continued, which was bravely answered with rifles by the poor wretches who knew they had no chance in trying to swim. I saw a Japanese boat, heavily armed, with men. I thought they were coming to the rescue, but I was sadly mistaken. They fired into the men on board the sinking ship. I do not know what their purpose was in doing so. The fact is that swimming men were fired at from the Japanese man-of-war and from the sinking ship, the men on board the latter probably having the savage idea that if they had to die their brothers should not live either. The *Kowshing* went down entirely after about half an hour or less from the time when the torpedo was fired. There would have been plenty of chance for her to try for a better fate by slipping her chain when she had been told to stay where she was or to take the consequences, and again by having recourse to a ruse, showing intentions to carry out the order of the Japanese man-of-war and running to the island. This had all been suggested at the proper time; but the perfect confidence of the captain and officers in the protection of the ship against any warlike undertakings by the fact of her being a British vessel flying the British flag sealed her fate, and, I am grieved to say, also the fate of the officers, crew, and soldiers, of which, as much as I know till now, only about 170 men saved their lives by swimming. So far, I do not know of any other European who reached the shore.

CONSTANTIN VON HANNEKEN.

Sworn to before me the 28th day of July, 1894.

W. H. WILKINSON,  
*Her Britannic Majesty's Consul, Chemulpo.*



*Mr. Denby, chargé, to Mr. Gresham.*

No. 37.]

LEGATION OF THE UNITED STATES,  
*Peking, August 4, 1894. (Received September 12.)*

SIR: I have the honor to inclose herewith a translation of a dispatch addressed to this legation on the 31st ultimo. A similar dispatch was sent to the representatives of all the foreign powers.

This dispatch is an explanation of the events which led to the present war, and is intended to justify China in the eyes of the world. In reply to the Yamên, I have merely acknowledged receipt of the dispatch and stated that I would forward to you a translation thereof.

I have, etc.,

CHAS. DENBY, Jr.

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[Inclosure in No. 37.—Translation.]

*The Foreign Office to Mr. Denby, jr.*

PEKING, July 31, 1894.

In consequence of the insurrection that took place in the Chuan-lo province in Korea<sup>1</sup> some time ago, the King of Korea presented a communication in which he asked China to give her aid and help toward suppressing it. The minister superintendent of northern trade thereupon memorialized the Throne in the matter.

Upon two previous occasions, risings against the political authority of the Government of Korea have occurred, and tranquillity has been restored by the military action of China. On the recent uprising, a detachment of Chinese troops was sent to Korea, not to Seoul, but to the vicinity of the capital city of Chuan-lo, when the trouble broke out, but when the insurgents heard of this they dispersed. Our military force showed compassion on the people, who were in distress, and had actually planned to leave the scene where the disturbance occurred, when, to our surprise, the Japanese Government dispatched a contingent of soldiers to Korea, under the false assumption that they were to be employed in helping to suppress the rebellion. But, in reality, the troops were sent direct to Seoul, and there stationed at the important points about the capital. Additional detachments of troops were afterwards dispatched from time to time to Korea, making a total number of over 10,000 men. The object the Japanese had in view was, after all, to impress Korea by her power, and coerce her not to recognize China as a suzerain power. The Japanese presented a list of many administrative reforms, all of which they insisted the King should carry into effect.

Now, it appears that Korea has been a tributary kingdom of China for many years, a fact that is well known throughout the world. When treaties were negotiated and concluded between Korea and foreign powers this fact was made known, and is a matter of record. Japan, in forcing Korea not to recognize China as a suzerain power, has thereby injured the honor and constitutional rule of China, and has broken the friendly relations which have hitherto existed between the two countries. It is certainly an admirable and worthy idea to persuade a neighboring State to bring about reforms and regulate its administrative system of government, but it should be roused or urged

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<sup>1</sup> Known in Korea as Cholla Do, the most southerly province of Korea.



to action only by means of kind and friendly words. Is it in accordance with right governing principles to employ a large body of troops to oppress the country, and by force compel reforms to be made? Such a procedure not only China would not bear, looking on quietly without doing anything, but all the foreign Governments, it is believed, would also regard it as being wrong and improper.

From first to last frequent instructions have been sent by the British and Russian Governments to their diplomatic representatives in Japan to make overture to the Japanese secretary for foreign affairs to induce his Government to cease further operations. The British secretary of state for foreign affairs endeavored to persuade the Japanese Government to withdraw their troops from Seoul. The Chinese and Japanese forces thus being stationed at different places, in an even-tempered spirit, the Korean question could then be discussed. Such a discussion would have been just and right, but the Japanese were overbearing; they refused to give ear to the entreaty made, and sent further detachments of troops to Korea.

The Korean people, as well as the Chinese merchants resident in Korea, were becoming daily more and more terrified and annoyed.

China is actuated by a desire to cultivate and maintain the strongest relations of friendship with all nations, and she certainly would not in a hasty manner commence hostilities, thus causing great distress to human life and bringing injury to commerce.

Although additional Chinese troops were afterwards sent to Korea to give protection, they were stationed a long distance from the capital and did not join battle with the Japanese. For what reason should the Japanese meditate trouble by secret plans? It appears that on the 21st of July, off the coast of Ya-shan, there were several Japanese war vessels that opened fire and caused damage to our transports, as well as sunk the British steamer *Kowshing*, which was flying the British flag. From a general view such action is unendurable. Although China's earnest wish is to be friendly with other nations, still she would find it difficult now, even in an indirect manner, to compromise matters, and there is no alternative but for her to decide on a determined plan of action.

It is believed that the foreign Governments, on learning of the altered state of affairs, will be astonished and will know where to place the responsibility.

The prince and ministers present the above, being all the particulars, from first to last, of Japan's action in commencing hostilities, which is an act not only contrary to principle, but a violation of international law. They beg the chargé d'affaires of the United States to communicate this dispatch to his Government.

A necessary communication addressed to Charles Denby, jr., esq.

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*Mr. Sill to Mr. Gresham.*

No. 38.]

LEGATION OF THE UNITED STATES,  
*Seoul, Korea, August 7, 1894. (Received September 12.)*

SIR: I have the honor to inform you that I, last evening, received a notice from the Japanese minister here, as per copy inclosed, of the formal declaration of war by Japan against China on August 1. This notice was accompanied by a private note (see copy) informing me that

Japanese consulates, their legation and subjects in China, would be under the protection of the United States in consequence of the cessation of peaceful conditions.

I at once communicated this intelligence to Captain Day, of the U. S. S. *Baltimore*, at Chemulpo, the senior naval officer present.

I have, etc.,

JOHN M. B. SILL.

[Inclosure 1 in No. 38.]

*Mr. Otori to Mr. Sill et al.*

HIS IMPERIAL JAPANESE MAJESTY'S LEGATION,

*Seoul, August 6, 1894.*

The undersigned has the honor to inform his colleagues that the following notice has been given by the Japanese Government to all foreign representatives in Tokyo on the 31st of July, and that war has been formally declared against China by the imperial rescript of August 1:

Japanese Government having exhausted every honorable means to bring about a just and lasting settlement of differences existing between China and Japan, and those efforts having proved wholly unavailing, the undersigned has the honor in fulfillment of duty devolving upon him to announce to you that a state of war exists between China and Japan.

MUTSU MUNEMITSU,

*His Imperial Japanese Majesty's Minister for Foreign Affairs.*

The undersigned avails himself of this occasion to renew to his colleagues the assurance of his highest consideration.

K. OTORI.

[Inclosure 2 in No. 38.]

*Mr. Otori to Mr. Sill.*

*SEOUL, August 6, 1894.*

DEAR MR. SILL: I have the honor to acquaint you that I have received a telegram from His Imperial Japanese Majesty's minister for foreign affairs that our legation and consulates, their archives, as well as Japanese subjects in China, have been placed under the protection of the United States, those legations and consulates having been withdrawn in consequence of the cessation of peaceful relations between our country and China.

Yours, respectfully,

K. OTORI.

*Mr. Yang Yü to Mr. Gresham.*

No. 39.]

CHINESE LEGATION,

*Washington, September 22, 1894.*

(Received September 24.)

SIR: I have the honor to state that I am in receipt of a communication from the foreign office of the Imperial Government, which states in effect as follows:

Recently, when the King of Korea made formal application to China for aid to suppress an uprising of seditious people in the department

of Chuan-lo,<sup>1</sup> the minister superintendent of trade for northern ports<sup>2</sup> memorialized the Throne in the matter, and, as on two previous occasions similar disturbances were repressed by aid from China, so, in this instance, troops were specially dispatched to Korea, proceeding, without entering Seoul, directly to the departmental city of Chuan-lo, to quell the uprising in that vicinity. On learning of the presence of the imperial troops in Korea, the seditious populace quietly dispersed. After affording relief to the distressed people the said troops were on the point of retiring from the country, when, unexpectedly, Japan also sent troops thither, under the pretext of assisting in the suppression of disorder, but, in truth, she ordered her troops into the city of Seoul, besides occupying important passes, and, by continual reinforcements, she increased her troops to more than 10,000 in number. She even endeavored, by intimidation, to influence Korea to renounce her vassalage to China, and to coerce the King to yield compliance to a series of demands.

It may be observed that Korea has for years been a vassal of China, as is well known to the whole world, and there is record to show that this relationship between the two countries was clearly declared at the time when Korea made her treaties with the several powers. The action on the part of Japan to extort a renunciation from Korea was derogatory to the dignity and honor of China and was in itself a breach of friendship hitherto maintained between the two States. It is ostensibly a laudable object for a State to urge a neighboring State to administrative reform, but this should properly be done by friendly advice and persuasion. Intimidation and threat of arms on the part of Japan were unjustifiable. Not only China on her part could not remain passive to such acts, but the Governments of the various powers would not deem them consistent with right.

The Governments respectively of the United States, Great Britain, and Russia made repeated efforts, through their respective diplomatic representatives at Tokyo, to dissuade Japan from her course. The British secretary of state for foreign affairs urged Japan to withdraw her troops from Seoul, station them away from the Chinese forces, and then peaceably come to an agreement with China with regard to Korean affairs. This was a very fair and impartial proposition, but Japan disdained to consider it. On the contrary, she further augmented her force in Korea. The Korean people and Chinese residents in Korea became daily more uneasy and alarmed. China, cherishing a desire to preserve international peace and friendship, had the utmost reluctance to resort to arms and thereby cause destruction of life and detriment to commerce.

Although later China increased her forces in Korea to protect her interests, all her forces were stationed far away from Seoul, so as to avoid a conflict with the Japanese forces. But Japan harbored sinister designs. On July 25 last she commenced hostilities by ordering a number of her warships to open an attack upon the Chinese transports off the Korean coast near Yashan;<sup>3</sup> she damaged them and sank a British steamship, the *Kowshing*, flying the British colors. This war has been commenced by Japan and upon grounds which, according to the disinterested opinion of the world, are unjustifiable. China, therefore, though cherishing a sincere regard for international friendliness, can no longer maintain her complaisance toward Japan, but finds it an absolute necessity to adopt a determined policy in defense of her honor

<sup>1</sup> The province of Cholla Do.

<sup>2</sup> The Viceroy Li Hung-chang.

<sup>3</sup> Asan of the Koreans.



and rights. The Governments of the several powers, on receiving intelligence of the recent course of events in Korea, would be, no doubt, much surprised and could judge on whom the responsibility should rest.

The above forming the complete facts and circumstances leading to the war brought on by Japan without regard to law or reason having been communicated to the diplomatic representative of the United States at Peking by the foreign office, I, in accordance with its instructions, have the honor to transmit the same to you for your information and that of your Government.

Accept, etc.,

YANG YÜ.

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*Mr. Yang Yü to Mr. Gresham.*

No. 40.]

CHINESE LEGATION,  
Washington, September 22, 1894.  
(Received September 24.)

SIR: I have the honor to inform you that I am in receipt of a communication from the foreign office of the Imperial Government to the effect that the facts and circumstances leading to the opening of hostilities by Japan having, in accordance with the usages of nations, been made known by the foreign office to all the diplomatic representatives at Peking, and inasmuch as Japan alone is at war with China, while all other treaty powers continue to maintain friendly relations with us, be it assured that all merchants, missionaries, and other subjects or citizens of the friendly powers are to receive the protection guaranteed them by the treaties. The foreign office has, by telegraph, communicated with the minister superintendent of trade for the northern ports in this matter, asking that all the Tartar generals, viceroys, and governors be notified of this by telegraph, so that premonitory steps may be taken by issuing public notifications to prevent any ignorance on the part of the populace as to the real state of affairs to be the cause of any disturbance or trouble.

The diplomatic representatives at Peking also have been communicated with and requested to instruct their respective consular representatives at the various ports to notify their own people to continue the pursuit of their respective peaceful occupations as hitherto, and not allow the impending war with Japan to cause any uneasiness on their part. On receipt of the above, I have the honor, therefore, to communicate the substance of the same to you for your information, and to avail myself of the opportunity to renew to you the assurance of my highest consideration.

YANG YÜ.

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*Mr. Denby, chargé, to Mr. Gresham.*

No. 41.]

LEGATION OF THE UNITED STATES,  
Peking, August 5, 1894. (Received September 22.)

SIR: I have the honor to inclose herewith a translation of an imperial decree which appeared in the Peking Gazette of the 1st instant.

This decree explains to the people of China the causes of the war. It is a justification by the Emperor of the hostilities in which the nation is involved. It is published, as he says, "for the information of our

people that they may know that in this affair the action taken by us has been actuated by a sense of the utmost kindness and of what was right and just."

Orders are given to the Viceroy Li to dispatch troops to Korea "to join battle with our foe," and the authorities of the maritime provinces are directed to engage with any Japanese vessels that approach, which, "without regard to number, are to be destroyed and exterminated." The decree concludes with a timely warning against any disposition to retreat.

I have, etc.,

CHAS. DENBY, Jr.

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[Inclosure in No. 41.]

*A decree issued by His Majesty the Emperor of China, August 1, 1894.*

Korea has for more than two hundred years been a tributary kingdom of China, and she has every year sent us her offerings of tribute. This is known to China and foreign powers alike.

During the past ten and more years there have been frequent insurrections in Korea, and cherishing, as we have, a kindly feeling toward a small and weak power, we have on several occasions dispatched our troops there, by whose action tranquility has been restored. We have also deputed a representative to reside at Seoul for the purpose of extending his good offices in the way of giving protection (to the Koreans) as occasion made it necessary.

During May of this year another insurrection occurred in Korea by a rebellious faction, and as the King requested us to come to his aid and help suppress the outbreak, we commanded Li Hung-chang to dispatch a contingent of soldiers to render due assistance. On our force reaching Ya-shan the insurgents dispersed and scattered like stars. But the Japanese, however, without cause or reason, dispatched a force of soldiers to Seoul, and afterwards these were supplemented by additional detachments, making the total of over 10,000 men. Japan's policy was to force Korea to make changes in her system of administration of government. In everything demanded they presumed on their power, and it was difficult or impossible to make them amenable to reason or advice.

Our Government has adopted the policy to tranquilize our vassal domain, but in the administration of her affairs of state we have hitherto commanded Korea to manage them herself. Japan and Korea entered into treaty relations as between two states, and it is decidedly against all reason for Japan by a strong military force to insult and oppress Korea and compel her by such means to make changes in the administration of her Government. The public opinion in foreign countries is that Japan, in sending an armed force, for no proper reason, to Korea, is at variance with the fundamental principle of reason. She has been persuaded to withdraw her troops and to discuss the questions at issue in an even-tempered spirit, but she has been overbearing and refused to give ear to the entreaty made; after all, nothing has been accomplished to the end in view.

Japan has, however, continued to send further reinforcements of troops to Korea. The Korean people, as well as the Chinese merchants resident in Korea, were becoming daily more and more terrified and annoyed, when China dispatched additional contingents of troops for the purpose of affording due protection. To our surprise, while our transports were en route to Korea, they suddenly met a number of Japanese war vessels. Knowing that our vessels were not prepared to meet them in action, when off the coast of Ya-shan, the Japanese vessels opened fire and damaged and destroyed some of our transports. This changed aspect of affairs certainly was a surprise.

The Japanese have, by their action, not only violated treaty stipulations, but they have disregarded the rules of international law. They have also arbitrarily acted in a violent and oppressive manner and have been guilty of treacherous schemes. They are responsible for the commencement of hostilities which, justly speaking, is plain and clear.

We now proclaim this special decree for the information of our people that they may know that in this affair the action taken by us has been actuated by a sense of the utmost kindness, and of what was right and just; but the Japanese, on the contrary, have revoked the compact with Korea and commenced hostility, an act entirely in violation of all principle. Under the present condition of affairs it is impossible for us to show any leniency whatever.

Let Li Hung-chang issue stringent orders for the immediate dispatch of troops from the various armies to the seat of war to join battle with our foe. Let the very best drilled troops be selected and be dispatched from time to time, and thus rescue the Korean people from their present state of distress.

Let all the Tartar generals, governor-general, and governors of the river and maritime provinces, and the high military commanders make all arrangements for warfare, and whenever Japanese steam vessels are met entering any of the treaty ports they are to meet them and fight them to the very utmost. Without regard to their number they are all to be destroyed and exterminated. Let there be not the least show of retreating under the penalty of punishment.

This, our decree, is proclaimed for general information.

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*Mr. Denby, chargé, to Mr. Gresham.*

No. 42.]

LEGATION OF THE UNITED STATES,  
*Peking, August 6, 1894. (Received September 22.)*

SIR: I have the honor to inclose herewith a translation of an official dispatch received by Mr. Komura, chargé d'affaires of Japan, from the Tsung-li-Yamén the day before his departure. I have translated it literally from the Chinese copy furnished me by Mr. Komura.

It is an interesting document, as it was intended by the Yamén and accepted by Mr. Komura as a formal declaration of war. This is the only formal declaration of war by China in modern times. It is unnecessary to call attention to its dignified and courteous tone.

I have, etc.,

CHAS. DENBY, Jr.

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[Inclosure in No. 42.]

*The prince and ministers of the Tsung-li-Yamén make a communication.*

We had long hoped to settle by negotiation, without a rupture of our friendship, the disagreements that existed between China and your country with reference to the affairs of Korea. On the 25th of July, however, at the seaport of Ya-shan in Korea, your forces made an attack upon our ships. Hostilities have therefore now begun, the treaties between our countries are henceforth void and this Yamén, to its great regret, will in future treat of no matters with you.

MR. KOMURA,

*Chargé d'affaires of Japan.*

The 20th year of Kuang-hsü, 6th moon, 29th day (July 31, 1894).

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*Mr. Denby, chargé, to Mr. Gresham.*

No. 43.]

LEGATION OF THE UNITED STATES,  
*Peking, August 6, 1894. (Received September 22.)*

SIR: I have the honor to state that, notwithstanding the assurance of the Japanese Government that it would regard Shanghai as outside the sphere of its warlike operations, the Chinese Government has decided to partially close the Huang-pu River at Wusung. A sufficient channel will be left for all mercantile purposes, which, if necessity requires, may be closed at short notice.

I have, etc.,

CHAS. DENBY, Jr.



[Inclosure in No. 43.—Extract from the North China Daily News.]

SHANGHAI, July 25, 1894.

We issued early yesterday morning an extra giving the following welcome information:

"Mr. Hannen, H. M.'s consul-general, has received a telegram from the British chargé d'affaires at Tokyo, Mr. Paget, announcing that the Japanese Government has undertaken to regard Shanghai as outside the sphere of its warlike operations."

It is very pleasant news to us all here that under no circumstances will the Japanese Government undertake war operations against Shanghai. Very great praise is due to our foreign office, to the Japanese foreign office, to Mr. Hannen, and to Mr. Paget, British chargé d'affaires at Tokyo, for the promptitude with which this matter has been arranged, when it is remembered that the wires were only put in operation via London on Sunday afternoon. This decision on the part of the Japanese Government is fixed, and there is no reason whatever to fear that any departure from it will be made.

*Mr. Denby, chargé, to Mr. Gresham.*

No. 44.]

LEGATION OF THE UNITED STATES,  
Peking, August 7, 1894. (Received September 22.)

SIR: I have the honor to report that I received to-day a telegram from Consul Fowler, Ningpo, stating that the Taotai persists in closing the port to all ships.

As Japan, however, has given no pledge not to attack Ningpo, I have telegraphed him in reply that this legation "can not object to China's necessary defensive measures."

I have, etc.,

CHAS. DENBY, JR.

*Mr. Sill to Mr. Gresham.*

No. 45.]

LEGATION OF THE UNITED STATES,  
Seoul, Korea, August 17, 1894. (Received September 14.)

SIR: I have the honor to hand you inclosed a copy of the translation of a dispatch received by me on yesterday from the Korean foreign office announcing that, at the instance of Japan, Korea has abolished or abrogated all the treaty regulations made with her by China.

I have also received a dispatch from the same office announcing that the coinage of the mint erected some two years ago by Japanese for this Government will now be used in the transaction of all business in Korea.

The great council mentioned in dispatch of July 18 is still sitting, and is daily adopting reforms in accordance with the suggestions of Japan. I will send you a copy of these when they are officially agreed upon.

Since writing my dispatch of August 7, there has been nothing of a decisive nature to write you about.

I have, etc.,

JOHN M. B. SILL.

[Inclosure in No. 45.—Translation.]

*Kim Yun-sik, president of the foreign office, to Mr. Sill, United States minister, Seoul.*

15 DAY, 7 MOON, 503D YEAR. (August 15, 1894.)

SIR: I have the honor to inform you that on the 18th day of the sixth moon (July 20) I have received a dispatch from Mr. Otori, the Japanese minister, as follows:

Upon examination of the regulations for maritime and overland trade, formerly made between China and Korea, and the regulations for sea trade for Chung kiang and the land trade of Kirin,<sup>1</sup> it seems evident that China regards Korea as her dependent state, since she made these regulations herself alone as the sovereign power. But on examination it is found to be allowed that in matters of both internal administration and foreign intercourse your country enjoys complete independence. Now inquiry shows that during the past, as at present, there has been much that is contrary to independence.

My Government looked upon these regulations as a mere form, not a substantial fact. My Government had not given the matter its close attention, and therefore little heed was paid to the supposed relations. But at this time China has stated formally that she will protect her tributary state; and she sent troops into Korea. It is now known by this that these regulations are no mere forms but a substantial [contract] matter.

Since these regulations are a binding form and must be conformed to, are they not very injurious to the rights of independence of your country?

Furthermore, regarding the treaty between Japan and Korea, which concedes that Korea being an independent state, enjoys the same sovereign rights as does Japan; this becomes then a mere document of nonsense in view of the above regulations.

Now your Government must uphold the independent power and assume the responsibility of maintaining the treaty you have made with my country. This is a very serious [weighty] matter, and I sincerely hope that your Government will immediately notify the Chinese Government of the abolition of all the former regulations and inform my Government that you have done so, in order that the treaty may stand clear and plain as a real thing and not a mere empty document, and that the countries making the same may not lose face by being placed in an equivocal position.

I have now the honor to inform your excellency that I have notified the Chinese resident (acting) in Seoul, Mr. Tong, of the abrogation of all the regulations which have been made between Korea and China, and I have also informed the Japanese minister of this fact.

I would request your excellency to inform your Government of the above facts.

KIM YUN-SIK.

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*Mr. Sill to Mr. Gresham.*

No. 46.]

LEGATION OF THE UNITED STATES,  
Seoul, Korea, August 24, 1894. (Received October 1.)

SIR: I have the honor to inform you that I am just in receipt of a dispatch from the department of foreign affairs here, informing me that hereafter foreign representatives in attending an audience at the palace will be allowed to ride through the gates to the waiting room.

This is doubtless the result of Japanese dictation. It has been regarded here as a matter of considerable importance.

This recent action of the council, indorsed by the King, illustrates forcibly the completeness of the overthrow of Chinese influence in Korea, as well the present supremacy of the Japanese.

The combined efforts of all the foreign representatives, except the Chinese, could not secure permission to ride from the outer gates of the palace inclosure to the waiting room; Chinese influence prevailed against all opposition. The Chinese representatives might so ride, and so might the Chinese consul, and even the telegraph superintendent, but not the other foreign representatives. Within one year a hint from Japan accomplishes all that was vainly sought in 1893.

I have, etc.,

JOHN M. B. SILL.

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<sup>1</sup>See Foreign Relations of the United States for 1883, pp. 173-176.

*Mr. Denby, chargé, to Mr. Gresham.*

No. 47.]

LEGATION OF THE UNITED STATES,  
*Peking, September 6, 1894. (Received October 27.)*

SIR: I have the honor to inclose, herewith, a translation of a proclamation issued by the governor of Formosa, offering prizes for the sinking of Japanese ships and small boats and for the taking of Japanese heads, as follows:

For the sinking of a large Japanese war vessel, 6,000 taels; for the sinking of a small war vessel, 2,000 taels; for the sinking of a man-of-war's boat containing one or two men, 400 taels; for sinking a boat "full of men," 800 taels; for the heads of Japanese officers, 200 taels each; for the head of a distinguished officer, 400 taels, "and other rewards;" for the heads of Japanese soldiers and sailors, 100 taels each.

The proclamation closes with an urgent admonition not to confuse Japanese with other foreigners, who are to be well treated. It points out that "Japan is a country by itself; it has nothing to do with western countries, and has no interest in either the Roman Catholic or Protestant religions."

This proclamation requires little comment. It is a direct invitation and encouragement to indiscriminate slaughter, not by soldiers alone but by "soldiers, people, and fishermen." The wounded and prisoners and shipwrecked will alike be slain. This proclamation has been copied in the three Chinese daily papers at Canton, and in all the Chinese papers at Shanghai. It will soon be known throughout the Empire and will incite the lawless elements against Japanese residents wherever they may be.

A similar proclamation (published in the *Shen pao*, of Shanghai, August 27, 1894) has been issued by Lu Taotai, principal director of the Kiang-nan arsenal, at Shanghai. This official, in addition to the rewards for sinking ships and taking heads, offers further rewards for information as to Japanese spies; 100 taels for the capture of a spy, 40 taels for information as to the whereabouts of one.

In conversation with the ministers of the Yamên, on other subjects, some time ago, I referred to the proclamation of the governor of Formosa. They professed ignorance concerning it. To later representations from other legations, they manifested irritation at being criticised in the matter, and stated that such proclamations are in accordance with old custom, that their provisions apply only to belligerents, and that the whole matter is of little importance.

The Chinese ministers are well aware of the view which foreign Governments take of such practices and, unless otherwise directed, I shall not refer again to the matter.

I have, etc.,

CHAS. DENBY, Jr.

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[Inclosure in No. 47.]

*Proclamation issued by Shao, governor of Formosa.*

Whereas the Japanese commenced hostilities by opening fire on our vessels off Ya-shan in Korea, let it be known that if any of their war vessels should appear at any of the Formosan ports our forces are at once to attack them.

Should any of the enemy's small steamers be found about the small ports for the purpose of prying into our affairs, or if any of their men should be found clandestinely on shore, our soldiers, people, and fishermen, on seeing them, are to attack them and kill them at once.

For sinking a large Japanese war vessel, some time ago telegraphic instructions fixed the reward at 3,000 taels. As the amount was regarded too small, the question was reconsidered, and it has now been decided to make it 6,000 taels.



For sinking a small Japanese war vessel, some time ago telegraphic instructions fixed the reward at 1,000 taels, but on reconsideration it has been increased to 2,000 taels.

For sinking a man-of-war's boat, the reward, by telegraphic instructions, was fixed at 400 taels, but it has now been decided after reconsideration to make the following discrimination, viz: For sinking a boat with one or two men in it a reward of 400 taels will be given; for sinking a boat full of men a reward of 800 taels will be given.

For the head of Japanese officers a reward of 200 taels each will be given; for the head of well-known or distinguished officers, 200 taels, and, in addition, other rewards; for the head of each Japanese soldier or sailor, 100 taels.

These rewards will be given after the military commanders and the local officers have investigated and pronounced upon each case. Our promises will be faithfully carried out, and in addition further marks of favor will be granted. Compensation of an exceptional form will, according to regulations, be made for our killed and wounded.

If any of the officers or men of our forces fail to stand by and do their duty on the eve of battle and protect our military interests they will be immediately decapitated. Japan is a country by itself; it has nothing to do nor is it connected with western countries, and has no interest in either the Roman Catholic or Protestant religions. Our soldiers and people must know that China is at present at war with Japan alone, and the reference made here to fighting and taking heads applies only to the Japanese vessels and their officers and men.

Friendly relations still exist between China and all other foreign countries. Therefore all foreign consuls, consulates, foreign merchants, missionaries and their chapels should be treated in the same kind manner and afforded due protection as heretofore.

Do not by mistake become involved or implicated in falsely disseminating unfounded rumors, thereby unlawfully creating confusion and disturbances. Those who disobey will suffer severe punishment, and no leniency will be shown. The governor will truly reward and certainly punish those deserving it.

This special proclamation is proclaimed for the information of our soldiers and people, so that they may alike obey its injunctions.

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*Mr. Denby, chargé, to Mr. Gresham.*

No. 48.]

LEGATION OF THE UNITED STATES,  
*Peking, September 15, 1894. (Received October 31.)*

SIR: I have the honor to report that I have received from the United States consul-general at Shanghai a telegram, requesting me to use influence to secure the respect of the neutrality of Shanghai by Japan.

From reliable official sources I learn that there is reason for anxiety on this subject. The Japanese Government has shown a decided inclination to withdraw from the promise made to England that Shanghai would not be attacked. For this change of attitude there is much justification. China has not herself respected Shanghai's neutrality. The great Kiang-nan Arsenal is situated above the city on the same side of the river, just beyond the suburbs of the Chinese city. In the security which the promised neutrality affords, it has been in constant operation. Foreign ships have also quietly loaded with munitions of war from the wharves of this arsenal, and, free from molestation, have awaited favorable opportunities to carry their cargoes to Formosa and elsewhere.

The Chinese Government is also reproached with violation of neutrality in the determination—manifested in the recent case of the two spies—to exercise exclusive jurisdiction over Japanese in the settlements. In consequence of this determination the Japanese are leaving the city in large numbers.

But, whatever grounds Japan may have for withdrawing from her undertaking, the neutrality of this great commercial center is of ines-

timable importance to foreign trade. Under these circumstances I had the honor to telegraph you to-day as follows:

In behalf of the American settlement you are requested to use influence to induce Japan to respect the neutrality of Shanghai, which is again menaced.

England and France have already been appealed to in this matter.

I have, etc.,

CHAS. DENBY, Jr.

*Mr. Sill to Mr. Gresham.*

No. 49.]

LEGATION OF THE UNITED STATES,  
*Seoul, Korea, September 17, 1894. (Received October 27.)*

SIR: I have the honor to inform you that, hearing reports of a Japanese victory in the north, I at once wrote to the Japanese minister, Mr. Otori, for information on the subject and promptly received a reply, from which I quote as follows:

I can give you the following official information dispatched from Ping-yang by General Nodzu, commander of the division which had actually taken part in the battle at Ping yang:

"We began attack on the Chinese at Ping-yang on the 15th and at the dawn of the 16th Ping-yang fell into the hands of our troops. The attack was made from all sides, no retreat was possible for the Chinese. The Chinese killed and captured are numberless."

I then asked Mr. Otori to send the inclosed message in Japanese over his military line to Mr. Dun, to be translated and forwarded to you. He kindly agreed to do so.

This is the first news of any importance that I have had for the past six weeks. The telegraph lines are entirely in the hands of the Japanese who have not cared to give out information. We have been aware of the constant movement of troops, but estimates of numbers were not reliable.

The Chinese force at Ping-yang has been variously estimated at from 20,000 to 108,000; probably 40,000 is near the correct number. The Japanese force engaged is said to have been one division, or 35,000 all told. The total Japanese force in Korea is estimated to be as great as 80,000. The actual figures are not given officially, however, and until a few days past we have known of but one army division, 35,000.

I have, etc.,

JOHN M. B. SILL.

[Inclosure in No. 49—Telegram.]

*Mr. Sill to Mr. Dun.*

Please cable Department Chinese army totally annihilated at Ping-yang by Japanese on September 16.

*Mr. Denby, chargé, to Mr. Gresham.*

[Telegram.]

No. 50.]

PEKING, September 19, 1894.

Naval engagement off North Korea 17th; five Chinese, three Japanese vessels reported destroyed; fleet at Port Arthur.

*Mr. Denby, chargé, to Mr. Gresham.*

No. 51.]

LEGATION OF THE UNITED STATES,  
*Peking, September 22, 1894. (Received October 31.)*

SIR: I have the honor to state that the vague news which reached Peking some days ago of a battle at Ping-yang, in Korea, on the 15th instant, has now been confirmed.

It is reported that 16,000 out of 20,000 Chinese troops engaged were killed or captured and the remainder dispersed. The strength of the Japanese forces engaged is unknown, but they are supposed to have numbered about 40,000. The Viceroy Li is said to take a most despondent view of the outlook.

Some details of the naval engagement reported in my telegram of the 19th instant are also at hand. The events preceding this engagement were about as follows: On the 13th instant the Chinese fleet, 12 ships in number, left Wei-hai Wei for Port Arthur, and on the 15th conveyed from there some 4,000 soldiers to the Korean coast in the vicinity of the Yalu River. The troops are stated to have been safely landed when at about noon on the 17th instant the Japanese fleet approached and engaged the Chinese squadron. The battle lasted until 5 p. m., when for some unexplained reason the Japanese withdrew and the Chinese sailed for Port Arthur. Every ship of the Chinese squadron is reported badly damaged, so much so that the protection of the Gulf of Pechili is supposed to be no longer possible.

Mr. von Hanneken, a German military officer attached to the staff of the Chinese Admiral Ting, reports that in evolution, tactics, and discipline the Japanese showed themselves superior, but that the bravery of the Chinese was unquestionable. Mr. von Hanneken was wounded, as was also Admiral Ting, and several foreigners, among whom one American, were killed.

The losses of the Japanese are known to have included three ships sunk, but no detailed information is at hand. The Chinese lost, by sinking, the *Chao Yang*, 1,350 tons, built at Newcastle in 1881, and the two Armstrong steel cruisers of 2,300 tons, *Chih Yuen* and *Ching Yuen*. The *Yang Wei*, sister ship to the *Chao Yang*, is ashore and partly burned. The *Chi Yuen*, at first supposed to be sunk, has arrived safely at Port Arthur. She made the fifth of the five reported lost in my telegram.

No newspaper reports of these battles are as yet at hand.

I have, etc.,

CHAS. DENBY, Jr.

*Mr. Denby, chargé, to Mr. Gresham.*

No. 52.]

LEGATION OF THE UNITED STATES,  
*Peking, September 18, 1894. (Received October 31.)*

SIR: I have the honor to inclose herewith a translation of a decree which appeared in the manuscript Peking Gazette of last night.

This decree is an expression of the Emperor's dissatisfaction at the Viceroy Li's conduct of the war. It states that he alone was responsible for the military affairs of China, and that he has failed to acquit himself properly of his duties. It is ordered that he be deprived of the "three-eyed peacock feather," granted him last Chinese new year as a mark of imperial favor, and of the "yellow riding jacket."



These decorations, strange as their designations sound to us, are only bestowed as marks of the utmost favor of the Emperor. They are conferred in recognition of exemplary services. The "three-eyed peacock feather" is granted only to princes of the blood and in compensation for military achievements. It is the highest decoration that a military career can obtain. The withdrawal of these decorations involves disgrace in proportion to the honor conferred in bestowing them.

This decree is the last of a long series of indignities put upon Li Hung-chang by his imperial master. His enemies have bitterly attacked him, and, unfortunately for China, these attacks have received a favorable hearing. The viceroy has received peremptory and insulting messages from the throne. He has been accused of nepotism. His son-in-law, Chang Pei-lun, has been ordered out of the viceregal Yamên. His nephew, Chang, of the armory department, has been dismissed from office and is reported to have committed suicide. The fact that his son, Li Ching-fang, was minister to Japan some time ago, was also urged against him.

Many friends, whose careers the viceroy has made, have turned upon him. Attacking him they hope to save themselves. He remains, however, defiant, spiritedly defending himself. He explains the charge of nepotism by asserting that appointments in war are not governed by the same principle as those made in peace, that in confidential positions he must have men upon whom he can rely.

It is certain that the viceroy, during his long exercise of a great and almost arbitrary power, has made many enemies. These are now coming forward against him. Some of them are to be found in the Tsung-li-Yamên, which body has been treated by him, on many occasions, with scant courtesy. It is asserted, also, that he has offended the Emperor by encroaching on the imperial prerogatives.

This conflict between the throne and the foremost statesman of China may be fraught with the gravest consequences. There seems no one in this Empire capable of conducting the war except Li Hung-chang. Should the Emperor allow him to be crushed, it would be impossible to fill his place. To him alone it is due that China has even the semblance of a modern army and navy to oppose the forces of Japan. Should, on the other hand, the viceroy adopt an attitude of defiance and maintain himself against the Emperor and his enemies, great encouragement would be afforded to the countless elements of unrest among the Chinese people ever latently hostile to the Manchu rule.

Whatever the result of the Emperor's attack may be, the time of making it is most inopportune. The present crisis should be met by a Government free from all danger of internal dissension.

In view of the importance of this subject, I telegraphed you this date as follows:

Imperial decree published here last night reproaches Viceroy Li's misconduct of the war. Emperor deprives him of his two chief decorations and threatens further punishment.

I have, etc.,

CHAS. DENBY, Jr.

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[Inclosure in No. 52.]

*A decree issued by His Majesty the Emperor, published in the Manuscript Gazette of September 17, 1894.*

The Japanese revoked the treaty existing between the two countries and commenced hostilities and forced their way into Korea. Entertaining a kindly feeling toward our vassal state, we, therefore, dispatched our forces to Korea to punish our foe.

Li Hung-chang, minister superintendent of northern trade, was appointed general director in the management of our military affairs and he should have given thorough consideration of the general interests at stake, made the best possible arrangements, and satisfied all necessary requirements. He alone was responsible for the trust imposed upon him. But he has not been prompt in the dispatch of troops at opportune times, and a long period has elapsed without successful achievements. He has failed to properly discharge the duties of his office.

Let him, therefore, be deprived of the "three-eyed peacock feather" and the "yellow riding jacket" as a light form of punishment. He must, however, make an effort and earnestly awake to action and give orders urging the officers in command of our forces in the various places in Korea to exert themselves, pursue and join battle with the enemy as an atonement for the errors committed.

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*Mr. Denby, chargé, to Mr. Gresham.*

No. 53.]

LEGATION OF THE UNITED STATES,  
*Peking, September 24, 1894. (Received October 31.)*

SIR: I have the honor to state that the Japanese, Ishikawa Goichi, referred to in my dispatch of the 5th instant<sup>1</sup> as having been arrested at Tientsin as a spy, was executed on the 20th instant at that city. He was first shot and then beheaded. A Chinaman named Lin, a secretary in the employ of the ordnance department, who was convicted of having given information to Ishikawa, was also beheaded. Lin confessed and repeated his confession in Ishikawa's presence.

Notwithstanding the suspicious circumstances surrounding this unfortunate Japanese, the severity of the punishment inflicted upon him is greatly to be regretted. No Japanese troops were then upon the soil of China. The war was being conducted entirely abroad and on the sea. The penalty of death was out of all proportion to the crime and out of all proportion to the injury which the alleged spy's reports could have been able to inflict. The Japanese Government had assured China that Ishikawa was not a spy, and it is feared they will be tempted to retaliation for what will be regarded as an unjust sentence.

I have, etc.,

CHAS. DENBY, Jr.

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*Mr. Sill to Mr. Gresham.*

No. 54.]

LEGATION OF THE UNITED STATES,  
*Seoul, Korea, September 24, 1894. (Received October 31.)*

SIR: Referring to my dispatch of July 18, it will be recalled that, previous to the capture of the palace by the Japanese, His Majesty had appointed a large and influential council to consider and propose reforms in the details of Korean Government. This council, consisting of seventeen members, had on the date of the dispatch mentioned above already proposed several sweeping reforms. This council is also referred to as engaged in their work under suggestions from Japan in my dispatch of August 16. As their deliberations are likely to continue a long time, I have thought it best to inclose a copy of the report of their proceedings up to and including August 28, the date of last adjournment.

We have no official knowledge that all these recommendations have received the indorsement or approval of His Majesty, though I am

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<sup>1</sup> Not printed.



informed by a prominent member of the council that he has, generally willingly, but sometimes quite unwillingly, approved them all; and we know that many of them have already gone into effect, at least here in Seoul, where Japanese authority is able to look to their enforcement. Outside of Seoul and its vicinity there seems to be no efficient government. The governors and magistrates disregard the orders of the King, saying that His Majesty is a helpless prisoner and orders coming from him are really from their traditional enemy, the Japanese, and that they best serve their King by refusing obedience to commands so obtained from him.

There is little of what we would call true patriotism in Korea, but there is almost universal hatred of the Japanese, and a good degree of loyal love of the King. It would seem good Japanese policy to work through His Majesty, who could easily be brought to favor Japanese views and whose subjects would generally fall into line if they saw him kindly and respectfully treated and believed him to have some freedom of choice. But the forcible entry of the Japanese into the palace and the cramping limitations under which it is notorious that His Majesty is held, tend, on the contrary, to break down his authority and belittle him in the eyes of his subjects, and so render him powerless to help in establishing the reforms set forth in the accompanying inclosure.

I have, etc.,

JOHN M. B. SILL.

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[Inclosures in No. 54.]

### *Korean council reforms.*

A number of reforms were discussed in the Korean Council on the 31st of July, and it was agreed that it should be recommended that laws covering the following points should be submitted to His Majesty for approval and promulgation:

First. Yangbans<sup>1</sup> and common people shall be put on the same footing before the law, and no exclusive privileges as to holding office or otherwise shall be retained by the Yangbans.

Second. Slavery of all kinds to be abolished.

[NOTE.—I understand that there was no slavery in Korea in the sense in which that word is usually understood. Poor people, often driven by necessity, became voluntary slaves or servants of the rich, in which case all the female children were also slaves or servants, but the males were free.]

Third. Marriages of widows of Yangbans to be permitted.

[NOTE.—Under the old law there was no restriction to the marriages of widows except those of Yangbans.]

Fourth. Early marriages to be prohibited. Marriageable ages, for males, 20 years; females, 16 years.

Fifth. Every person, high or low, to have the privilege of sending in letters of advice to the council, which will be duly considered.

Sixth. All precedence and distinctions of civil over military officers to be abolished, and military officers to enjoy relative and equal rank with civil officers.

Seventh. Officers of the army must wear military uniforms. Official costumes to be changed. Wide sleeves through all classes to be abolished as far as possible.

Eighth. In dates of all official documents only the Korean Era shall be used.

Ninth. The number of servants comprising the retinue of officers in public places to be regulated and lessened.

Tenth. If a man commits a crime, no punishment of any kind shall be inflicted on account of his crime upon any members of his family or relations.

Eleventh. If a man has no son by his wife but has one by his concubine, he may adopt as his legitimate son such son by his concubine, who will be regarded as his

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<sup>1</sup> Official and privileged classes.



legitimate son and have all the privileges and may be appointed to office exactly as if he had been born in lawful wedlock.

[NOTE.—I am informed that under the old law the son of a concubine could not be adopted as a legitimate son and could not be appointed to any high office, and that a man having no legitimate son could not legitimize his own son born of a concubine. He could only adopt a boy as his son from among his relations or another family. Such adopted son had to be born of a wife and not of a concubine. I may not be critically correct in the above.]

The following were passed for approval on August 1 by the council:

First. The new organization of government to be put into operation at the expiration of twenty days.

Second. Notice to be given to all the departments and officials throughout Korea to use for dates only the Korean era.

Third. All ministers and heads of departments to be named and appointed by His Majesty, but such ministers or heads of departments shall name and appoint the subordinate officers and employees of their respective departments.

Fourth. Police department must be thoroughly reorganized.

Fifth. The total revenue from all sources of each province, as well as the number of the soldiers therein, must be properly tabulated and sent to the council as soon as possible.

Sixth. As the Japanese army is in Korean territory with no design of injuring or hurting the people, notices must be sent out to the people not to be afraid of the Japanese soldiers and to treat them kindly and courteously.

The following were the measures adopted by the Korean council on August 2 for recommendation to His Majesty:

First. General rules for the various departments must be discussed and adopted and the affairs of each department conducted under the rules applicable to such department.

Second. The first business to be done shall be the examination and regulation of the affairs of the internal revenue and finance, in order that funds may be first provided for conducting the Government.

Third. Officers high or low to be free to go about without any particular form of ceremony. They can ride or walk or go in any way they please.

The official use of the one-wheel chair and of the so-called "low chair" used by the prime ministers is to be abolished. The custom of forcing the common people of lower rank to dismount, or get out of their chairs when high officials are passing, is also to be abolished.

Fourth. The number of retinue or followers of the high officers shall not exceed four men for the prime minister; three men for each of the ministers; two men for vice-ministers; and one for chamui. There shall be none for chusas or lower officers.

Fifth. If any officer unlawfully exacts any money or unlawfully takes any property from any person, high or low, he shall be punished severely (according to the ancient law) and the money or property taken away from him.

The law and police departments only shall arrest and punish any person, high or low, and other departments or officials shall not do so.

Sixth. All persons, whether of the highest or lowest station, shall be put on an equal footing under the law and shall enjoy the same protection and be subject to the same penalties.

Seventh. Ex-officials shall be permitted to engage in trade or any other lawful business they may wish to undertake.

The following measures were adopted by the Korean council on August 3 for recommendation to His Majesty:

First. Official seals for each department to be adopted. Government buildings for the use of each of the departments to be selected and properly fitted up.

Second. All moneys and revenues belonging to or due the Government to be collected as soon as possible and placed under the charge of the finance department in order to pay the expenses of the Government.

Third. The old custom of holding literary examination or "kuagas," for the purpose of selecting officers and conferring rank, to be abolished and a new method of selecting and appointing officers shall be inaugurated.

The following were the measures adopted by the Korean council on August 4 for recommendation to His Majesty:

First. The debt of the Government for provisions, etc., for the palace and the debts of the various departments must be examined and audited and the total

amounts ascertained and settled by the board of national debt in the finance department and the amount paid in installments.

Second. The unpaid salaries of all officers shall be ascertained and audited and paid according to the foregoing article.

The council has adjourned to the 8th instant, and I will continue to report to you on the reassembling of the council.

The following measures were adopted by the Korean council on August 8 for recommendation to His Majesty:

First. Whereas the number of officers and servants of the Government will under the proposed reforms be greatly reduced, and in consequence of stoppage of salaries and wages there may be some distress among those discharged, therefore the unemployed officers and servants shall be put under the charge of a department and given a reasonable time to either receive some appointment, if positions be vacant, or to engage in trade or some other vocation.

Second. It appearing that many of the scribes now employed are worthy and have experience and knowledge of the business of the Government, it is recommended that at least one-third of the chusas selected shall be from among the scribes. Such scribes shall, however, be submitted to a strict examination, and only those who are found competent and worthy shall be appointed. The other two-thirds of the chusas shall be elected from the body of the people, whether of high or low degree, after full examination as to their qualifications and merits.

Third. The names of foreign countries, places, and persons shall be written hereafter only in the national Korean alphabet (Eun Mon).

Fourth. No person shall be arrested, tried, or punished except by the law courts and its officers, and no other official or yangban shall have the right to arrest, detain as prisoner, try, or punish any person.

The following measures were adopted by the Korean council on August 9 for recommendation to His Majesty:

First. All laws advised by the council and promulgated by His Majesty must be strictly and impartially enforced, and if any person shall violate the same he shall be punished without hesitation and regardless of whether he is of high or low degree.

Second. The old custom of writing various official orders and dispatches to the various departments and officers in very large characters and on enormous sheets of paper should, on account of the inconvenience and expense involved, be abolished, and official letters and dispatches should therefore be written upon sheets of ordinary size, which size should be designated and selected.

Third. An official shall be appointed for each harbor to take charge and manage the commercial affairs thereof.

Such official shall have no connection with the magisterial business of the place, nor shall he be under the control of the local magistrate.

Fourth. Until the new laws for the administration of justice are put into force the officers having charge of the administration of justice shall try offenders and inflict punishments in strict accordance with the ancient laws, and not, as is now the custom, according to their wishes and whims.

The following measures were adopted by the Korean council on August 10 for recommendation to His Majesty:

First. The taxes shall be collected hereafter in money only and not partly in grain cloth, and other things, as heretofore.

Government depositories for the money shall be established in the various provinces, with a head depository at Seoul and money received for taxes transmitted to Seoul by a system of exchanges as far as possible.

Second. The subordinate departments, offices, and officials shall be properly classified throughout the country, and each class placed under the authority and charge of one of the nine new appointments of the reformed government to which the class properly belongs.

Third. Transportation and moving from one district in Korea to another of grain and other food products shall not be prohibited or hindered, but this shall not prevent the Government from prohibiting the export of grain to foreign countries whenever a scarcity of food is apprehended within the Kingdom.

The following measures were adopted by the Korean council on August 11 for recommendation to His Majesty:

First. A uniform system of measures should be adopted, and also of weights, and standards should be provided for both.



Second. The values of the various coinage of cash shall be adjusted, and the new money coined in Chemulpo shall be put into circulation from the 20th day of the seventh moon.

Third. All houses shall be numbered and a wooden tablet hung near the entrance giving the number of the house and the name of the owner.

Fourth. Where sub-bureaus have been provided for in any of the nine departments no officers shall be appointed for such bureaus until there is business requiring the services of such officers.

The following measures were adopted on August 12:

First. In every magisterial district a council shall be organized, to be composed of old and experienced men, one to be selected from each precinct in the district, such selections to be made by elections held by the men residing in the district, who shall vote by ballot. The council shall advise with regard to the civil affairs of the district, and the magistrate shall listen to them and be governed by their advice.

Second. Where Government taxes have been collected and not paid into or accounted for to the Government the account of the magistrates and scribes in arrears shall be examined and report made as to how much is due by the magistrate and how much due by the scribes, and such report shall be submitted to the Government for proper action.

The following measures were adopted by the Korean council on August 13 for recommendation to His Majesty:

First. It is recommended to His Majesty that a place be provided in the outer palace where His Majesty will meet his ministers and advisers, hear their reports, and give his orders and directions.

Second. A certain number of intelligent young men who have a good Korean education shall be selected and sent abroad to study in foreign countries.

Third. When the ministers for the various departments have been appointed they shall meet in the office of the prime minister and examine the scribes for the purpose of selecting and appointing the most efficient of them to places in the various departments, and this should be done before the 20th of this month.

The following measures were adopted by the Korean council on August 14 for recommendation to His Majesty:

First. All the soldiers of the various barracks shall be put under the command of one general, but this shall not apply to the bodyguard of His Majesty.

Second. The official account books relating to tribute or tax rice of the three southern provinces shall be examined by the new tax collector and a full report made of the state of such account to the Government.

Third. Three competent and proper officers shall be selected and sent to the four provinces, viz, Whang-hai, Piong-an, Kang-won, and Ham-gyong, to assist in the promulgation of the reformed laws, to supervise the actions of the various officials in the provinces, and to hear the complaints of the people.

The following measures were adopted by the Korean council on August 15 for recommendation to His Majesty:

First. The offender, Min Yong-chun, who wielded the great power and influence he possessed most improperly, deceiving His Majesty and grievously oppressing the people, and the sorceress woman, mother of Kim Chang-yol, who, falsely claiming to be able to communicate with the spirits, influenced the issuing of edicts which resulted in great harm to the people and caused many grievous acts to be committed under the name of the law, have not yet been punished for their crimes and a great clamor has been raised by the dissatisfied people because of this fact.

A memorial on this subject was submitted some time ago by Chi Sock-yong, the assistant minister in the law department, but it has received no attention, and it is now recommended that this memorial be read and attention given to it. This memorial expresses, not only the opinion of Chi Sok-yong, but of all the people of this nation. Therefore this man and woman should be brought before the courts of justice and tried and punished for their many crimes.

Min Hiong-sik, ex-Tong-chai-sa of Kyong-sang Do, when he had jurisdiction and power in the three provinces of Kyong-sang, Cholla, and Ch'ung-ch'ong (being consumed with avarice and crazy for the acquisition of money and property) grossly oppressed the people and robbed them of their property.

If his crimes be overlooked, how can the people of these provinces, whom he so grossly oppressed and robbed, be satisfied? He should be tried and punished.



Second. It appearing that in many instances governors, magistrates, and other high officials and yangbans have taken by force and without compensation timber lands, under the excuse that they would be used by them as burial places in the future, and that this has been a cause of great grievance and loss to the people, it is advised that this matter should be carefully examined into, and in cases where wrongful appropriation of land has been made the land should be restored to the rightful owners, the tombs (if any) removed, and any improper title deeds canceled. Laws to prevent in the future the above-mentioned evil practices and abuses should be made.

Third. It appearing that in many cases governors and other officials and yangbans have taken by force from the owners immovable property, such as farms, timber lands, and houses, without making any compensation, or at best making very inadequate compensation, it is advised that any person who has been thus defrauded and deprived of his property within the last ten years shall be allowed to send a petition to this council, setting forth the facts and supported by written statements of two witnesses who have personal knowledge of the facts, and that the council examine into the matter and, if the claim of the petition be established by clear proof, that the property be restored to the rightful owner on such terms as are just. If any false complaints are made the complainant must be punished.

Fourth. Ministers for the newly established departments must be appointed without delay.

Fifth. The various departments must have foreigners for their advisers.

The following measure was adopted by the Korean council on August 16, 1894, for recommendation to His Majesty:

First. His Majesty having graciously made reply to our recommendation made yesterday with respect to the sorceress, the mother of Kim Chang-yol and Min Yong-chun and Min Hiong-sik, we recommend that the woman be arrested and tried. As to Min Yong-chun and Min Hiong-sik, we most respectfully present again the resolution of yesterday and humbly request that permission be given to proceed against them for their many crimes.

The following measures were adopted by the Korean council on August 17 for recommendation to His Majesty:

First. Hereafter when the representatives of the foreign Governments have audience with His Majesty, it is recommended that they should, according to foreign custom, ride in their chairs to the inner gate of the waiting hall.

Second. It is recommended and respectfully requested that His Majesty appoint Ye Chun-yong, nephew of His Majesty, as a member of this council.

Third. The salaries of all the officers, scribes, and servants who may, under the reformed Government be dismissed, should be paid according to the old system of payment until they can receive other appointments or can engage in other occupations.

The following measures were adopted by the Korean council on August 18 for recommendation to His Majesty:

First. No officer of the household department, whether high or low, shall be appointed to or have any connection with the departments for the administration of national affairs.

Second. The council will adjourn for a few days to enable the various new departments to organize, and then it will meet every alternate day. If there should be any important business on other days the president shall call a meeting.

Third. As the way of appointing officers heretofore adopted is to be changed, it is recommended that governors and magistrates be selected as follows: The first, second, and third prime ministers and the head ministers of the other eight departments shall constitute a board which will recommend three suitable persons for each vacant position and from these three His Majesty shall select one.

The following measures were adopted by the Korean council on August 22 for recommendation to His Majesty:

First. When memorials, whether from high or low persons, are sent to His Majesty alleging bad conduct on the part of any officials, copies of the same should be transmitted to the department of the prime minister, so that the matter can be fully examined into and recommendation for redress made, should the statements of the memorial be found true.

Second. Ceremonial offenses should be defined and arranged for as soon as possible.

Third. In advance of the collection of the yearly revenue of this country, the

expenses of the various departments should be paid out of the funds now in the treasury.

Fourth. The jail in Seoul should be put under the police department and the alleged offense of any person arrested, whether great or small, should be tried and determined according to the rules of the police department, and when the offense is proven the head of the police department must send in writing to his superior officers (law department) all the evidence, together with the offender, where proper judgment will be rendered.

This arrangement is intended to be temporary, and only to continue in force until the courts are more fully organized.

The following measures were adopted by the Korean council on August 24 for recommendation to His Majesty:

First. It having been determined to collect the taxes of all the provinces in money instead of in rice and other products as heretofore, it has become necessary, in order to carry out the business, to establish a company of rice merchants in Seoul to be composed of the head rice merchants of Seoul and of the five principal places on the Han River. Such business shall be under the jurisdiction and control of the department of agriculture and commerce, which will arrange with it about the exchange of Government money and make other necessary and proper rules for the company.

Second. The management of the red ginseng business and the revenue derived therefrom shall be under the authority of the treasury department.

Third. Complaints of the people respecting infractions of the laws and which heretofore belonged to the Han-Sang Bu (magistrate of Seoul) should be heard in the police courts, and all the officers and employees thereof must not treat the people badly in any way and must not accept any bribes or gratuities of any kind from any person whomsoever.

The following measures were adopted by the Korean council on August 26 for recommendation to His Majesty:

First. If any one goes into the palace grounds without permission or without official business or tries to remain in the palace grounds at night without permission, the household department shall report such person to the police or law departments, where he can be tried and punished.

Second. As it is proposed to establish a thorough police force in Seoul, the night watches in the street by soldiers shall be abolished as soon as this is done.

Third. Offenders of every kind shall be immediately arrested, and this shall include, also, members and servants of the household department.

Fourth. As a bodyguard for His Majesty is to be organized, it is important that the noncommissioned officers be properly selected and instructed, and for that purpose intelligent and physically strong men should be picked from the army and appointed and instructed as noncommissioned officers for the bodyguard.

Fifth. All new laws must be first prepared by the law department and then sent to the department of the prime minister for its examination and approval and, if approved, shall be submitted to this council.

Sixth. The further construction of the mountain wall of Chung-Chu should be stopped at once and the amount of money collected from every district for its construction, as well as the amount actually expended in the work, must be examined into by an official appointed by the governor of Ch'ung-ch'ong Do, which official shall without delay make a full report to the Government.

The following were the measures adopted by the Korean council on August 28 for recommendation to His Majesty:

First. Books for the primary school should be prepared and printed by the educational department.

Second. Where officials in the country districts are charged with offenses they should be brought to Seoul by the order of His Majesty sent through the law department. Any person ordered to be exiled by His Majesty shall be sent to the place of exile by the law department.

Third. As the various departments have not fully completed their organization, and there is much unfinished business for them to do in connection with the same, this council will now adjourn for five days.



*Mr. Denby, chargé, to Mr. Gresham.*

No. 55.]

LEGATION OF THE UNITED STATES,  
Peking, October 5, 1894. (Received November 19.)

SIR: I have the honor to report that the British ship *Pathan*, which cleared from New York on or about the 15th of July for Hongkong, China, and Japan, was seized near the Pescadores, in the Formosa Channel, on the 22d ultimo, by the Chinese cruiser *Nan-sheng*.

The *Pathan* was loaded with a valuable cargo of American cotton goods, consigned to Shanghai, and with locomotives and railroad materials consigned to native firms in Japan. In addition she had \$45 worth of revolvers and some cartridges, consigned to a foreign firm in Japan. The Chinese were warned from Singapore of the existence of these contraband goods upon her and this led to her seizure. She was taken into the port of Kelung, in Formosa, and held there, subject to the orders of the Chinese Government, which desired, before coming to any decision as to her disposal, to search her fully. The situation was complicated by a report that the steamer herself had been sold to Japan while in mid-ocean.

On the 29th ultimo I received a telegram from the United States consul-general at Shanghai informing me that a large part of the *Pathan's* cargo was consigned to American firms and asking that measures be taken to protect it. I at once went to the Yamén and asked that, whatever disposition shall be made of the ship and contraband goods found upon her, the neutral cargo consigned to American merchants be properly delivered to them. The Yamén replied that their action with regard to the ship would depend upon the result of the inquiry as to her ownership, whether English or Japanese, but they undertook in any case to order the delivery to the Shanghai consignees of the cargo not seized as contraband.

This case suggests some interesting questions. By the declaration of Paris of 1856 enemy's property in neutral ships can not be captured except being contraband of war. This, however, only holds good as between subscribers to the declaration. China is not, while Japan is, among them. The conclusion seems inevitable that China is therefore at liberty to search neutral ships and seize all Japanese property, whether contraband or not, found thereon, while Japan can only exercise such right against neutrals who have not given their adhesion to the declaration of Paris.

If this view be correct, all the cargo of the *Pathan*, whether contraband of war or not, consigned to Japanese firms, may properly be confiscated, and it was not necessary to allege the existence of contraband upon her to justify her detention and search. These remarks apply to all other ships. In short, it seems that if neutral powers should allow to China the full exercise of her belligerent rights it would be legally possible for her to effect the entire destruction of Japan's foreign commerce. Should she see fit to issue letters of marque to privateers for this purpose, she would be at liberty to do so.

The Chinese Government has never announced an intention to exercise the right of search upon the high seas against neutral ships bound for Japan, and, under your instructions, I have carefully avoided the subject in interviews or correspondence with the Yamén. Their action in the case of the *Pathan*, however, is a direct assertion of the right. In this action the British authorities have so far acquiesced. The ship has been allowed to proceed to Shanghai under bond, but it is not



known to what terms the British and Chinese Governments will eventually come concerning her detention and search.

I have, etc.,

CHAS. DENBY, Jr.

*Mr. Goschen to Mr. Gresham.*

No. 56.]

BRITISH EMBASSY,  
New London, October 6, 1894. (Received October 9.)

SIR: I have received a dispatch from Her Majesty's principal secretary of state for foreign affairs, directing me to ascertain whether the United States Government would be willing to join with England, Germany, France, and Russia in intervening between China and Japan. The basis of such intervention would be that the independence of Korea should be guaranteed by the powers and that Japan should receive an indemnity for the expense of the war.

I should be much obliged if you would kindly enable me to reply to Lord Kimberley at the earliest date possible.

I have, etc.,

W. E. GOSCHEN.

*Mr. Uhl to Mr. Goschen.*

No. 57.]

DEPARTMENT OF STATE,  
Washington, October 10, 1894.

SIR: I have the honor to acknowledge the receipt of your note of the 6th instant, asking whether the Government of the United States would be willing to join with England, Germany, France, and Russia in intervening between China and Japan.

In reply I beg to inform you that the subject will be brought to the attention of the President.

I have, etc.,

EDWIN F. UHL.

*Mr. Gresham to Mr. Goschen.*

[Telegram.]

No. 58.]

DEPARTMENT OF STATE,  
Washington, October 12, 1894.

In reply to your note of the 6th instant I have the honor to say that, while the President earnestly desires that China and Japan shall speedily agree upon terms of peace alike honorable to both, and not humiliating to Korea, he can not join England, Germany, Russia, and France in an intervention, as requested.

W. Q. GRESHAM.

*Mr. Goschen to Mr. Gresham.*

No. 59.]

BRITISH EMBASSY,  
New London, October 14, 1894. (Received October 16.)

SIR: I duly informed Her Majesty's principal secretary of state for foreign affairs of the reply of the United States Government respecting the proposed intervention between China and Japan, which you

were good enough to communicate to me by telegraph on the 12th instant.

I am now instructed by his lordship to call your attention to the fact that the intervention contemplated would be limited to diplomatic action and would only take place in the event of a suitable opportunity presenting itself for the adoption of such a course.

I have, etc.,

W. E. GOSCHEN.

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*Mr. Denby, chargé, to Mr. Gresham.*

No. 60.]

LEGATION OF THE UNITED STATES,  
*Peking, October 9, 1894. (Received November 19.)*

SIR: I have the honor to state that I am in receipt of a dispatch from the Tsung-li-Yamên, dated the 6th instant, in which they announce that the port of Foochow has been closed for purposes of defense.

One entrance, the Wu hu Men or Five Tigers Entrance, has been left open. A designated place is specified as an anchorage for foreign and Chinese steamers outside the mouth of the river. Here they are to discharge and load cargo, which must be conveyed to and from the city of Foochow by lighters registered at the customs, which lighters are to follow an indicated route and ply only in the daytime.

Burdensome to commerce as these regulations will doubtless prove, no objection can be made to them in view of the fact that China's naval force is utterly demoralized and entirely inadequate to the protection of her coast. Foochow is an important naval depot, and must be guarded at all hazards.

A copy of the Yamên's dispatch has been sent to the consul-general at Shanghai and to the consul at Foochow for the information of American shipping.

I have, etc.,

CHAS. DENBY, Jr.

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[Inclosure in No. 60.—Translation.]

*The Tsung-li-Yamên to Mr. Denby.*

OCTOBER 6, 1894.

SIR: Upon the 3d instant the prince and ministers received a telegram from the viceroy of the Min-Che provinces,<sup>1</sup> stating that he has now taken measures for the defense of the port of Foochow by establishing a blockade. But the Wu hu Men (Five Tiger Entrance) will be kept open, and Chinese and foreign steamers will be permitted to anchor below Sharp Peak Point, behind Ho-keang Island, and there discharge and load cargo, which must be conveyed by lighters registered at the customs. These boats must ply in and out by the route south of the Nan kuei Hill (or Island). They are not permitted to run during the night, in order to avoid their being fired on by mistake.

In addressing this communication to the chargé d'affaires of the United States the prince and ministers request him to issue a notification for the information of United States steamers, so that they may act in accordance therewith.

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<sup>1</sup> The provinces of Fu-kien and Che-kiang.

*Mr. Sill to Mr. Gresham.*

No. 61.]

LEGATION OF THE UNITED STATES,  
*Seoul, Korea, October 12, 1894.* (Received November 13.)

SIR: I have the honor to inform you that since the battle of Ping-yang and the naval battle off the mouth of the Yalu River there has been an absence of military news. We know that the Japanese have followed the flying Chinese and now occupy the southeast bank of the Yalu River. The Chinese having crossed to the northern side, conflict is likely to be renewed any day.

I beg leave to submit herewith a chronological statement of the salient events of the present conflict from its beginning in March of the current year to the present date, for the convenience of the Department.

\* \* \* \* \*

I have, etc.,

JOHN M. B. SILL.

[Inclosure in No. 61.]

*Chronological statement in re the war in Korea, 1894.*

March 29: Kim Ok-kiun assassinated at Shanghai and great excitement thereat in Japan where he had been for many years a refugee.

April 12: The body of Kim Ok-kiun brought to Korea in a Chinese man-of-war.

April 14: Mr. Otori, Japanese representative here, calls a meeting of the foreign representatives to protest against the mutilation of Kim's body. The representatives remonstrated with the foreign office unofficially, but the mutilation took place the same evening, April 14.

May —: A rebellion has for some time been disturbing the southern provinces.

May 10: By advice of the Korean Government I called into Seoul all American missionaries, except those in the open ports, on account of the rebellion.

June 1: Official notice received that the rebels have defeated the Government forces and captured Chon-ju, the provincial capital of Cholla Do.

June 3: Chon-ju is retaken by Government forces; the rebellion practically suppressed.

June 8: The Government announces officially that the rebellion is ended.

June 10: Chinese land 2,000 soldiers near A-san, 40 miles south of Chemulpo, to suppress the rebellion. This was done at Korean request, dictated and insisted upon by Yuan, the Chinese resident.

June 10: Five hundred Japanese marines enter Seoul. They are announced as a legation guard.

June 13: Eight hundred Japanese soldiers relieve the marines. These troops were landed from transports just arrived. Two hundred soldiers were left at Chemulpo and 200 along the road, where earthworks were erected at important points. Mr. Otori, who left for his other post at Peking May 2, returned to Seoul with these troops.

June 16: Three thousand more Japanese troops land at Chemulpo.

June 25: The foreign representatives, at the request of the Korean Government, ask the Chinese and Japanese representatives to consent to a simultaneous withdrawal of their respective troops. China agrees; Japan does not. More Japanese troops arrive; 5,000 men on hand. These are said to be an addition to the legation guard.

June 26: Mr. Otori presents his memorial on reforms to the King.

June 28: Mr. Otori demands a definite statement as to whether Korea is a vassal of China or not. He is answered evasively.

July —: Compelled to act in the matter of reforms and wishing to act as independently as possible while appeasing Japan, the King appoints a council of seventeen important officials to draw up proposals for reform.

July 15: Assault upon Her Britannic Majesty's acting consul-general.

July 17: Her Britannic Majesty's consulate receives a marine guard. Three ineffectual meetings held at the foreign office regarding the neutrality of the ports of Korea.

July 23: The palace is forcibly seized, and the Tai Wen-kun called from long retirement to public prominence by the Japanese. Guard asked for this legation.

July 25: The British steamer *Kowshing*, transporting Chinese troops to Korea, is sunk by the Japanese near A-san. A Chinese gunboat is also captured. The United



States legation receives a guard of 50 men and officers from the *Baltimore*. The Russian, French, and German establishments are also guarded.

July 27: The British consul takes control of Chinese interests, the Chinese officials having left for home.

July 28-29: Battle at A-san, 70 Japanese killed. Chinese lose 500 to 800 and all their stores and artillery. The main body of the Chinese (1,500 to 2,000) escape and pass up through the middle of the peninsula and effect a junction with the Chinese at Ping-yang.

August 1: China and Japan each declare war.

August 4: Chinese troops arrive at Ping-yang under two generals; 20,000 supposed to have arrived within a few days.

August 6: The remainder of the Hiroshima army corps arrive under Generals Nodzu and Oshima, about 30,000 men, including cavalry, artillery, and 5,000 coolies for transportation purposes.

August 15: Korea abrogates her treaty relations with China.

August 19: Korea issues official notice of an entire new plan of government.

August 29: Foreign representatives granted permission to ride into palace in chairs.

September 3: Marquis Saionji, special ambassador from the Emperor of Japan, has an audience with the King, and presents gifts from the Emperor to the King.

September 6: Foreign representatives protest against the employment of an undue number of governmental assistants from any one nation (i. e., from Japan).

September 12: Nagoya army corps arrives at Chemulpo under Field Marshal Count Yamagata, with a prince captain.

September 15: Battle of Ping-yang begun at dawn.

September 17: Japanese fleet, 10 war ships and dispatch boat, encounter Chinese fleet of 14 ships and 6 torpedo boats about halfway between Port Arthur and the mouth of the Yalu River. Japanese destroy four Chinese men-of-war and seriously damage others. They lose no vessels themselves.

October 1: The rebellion reported as suppressed in June has begun with the added horror of a disorganized, pillaging mob. Taxes are no longer paid. Officials are robbed, and often either castrated or murdered. Small parties of Japanese have been beaten and killed with extreme cruelty by Koreans.

October 5: Japanese take An-ju and get three guns.

October 9: Japanese drive a Chinese force across the Yalu River. No Chinese left in Korea. A decisive battle is expected to take place soon at a fortified place 30 miles up the Yalu River from Wei-ju, at a junction of this river with a branch.

October 11: Prince Ye Kang, legitimated son of the King, starts for Japan as special ambassador to return the visit of Marquis Saionji. It is rumored that the Japanese are bringing prisoners to Seoul as an object lesson to the Koreans.

JOHN M. B. SILL,  
*United States Minister.*

LEGATION OF THE UNITED STATES,  
*Seoul, Korea, October 12, 1894.*

*Mr. Denby to Mr. Gresham.*

[Telegram.]

No. 62.] PEKING, *October 30, 1894.* (Received 9.10 a. m.)

Chinese forces have been defeated at Chiu-lien Ch'eng; have retreated to Moukden. Japanese have taken one fort at Port Arthur; they propose to take others to-morrow.

*Mr. Denby to Mr. Gresham.*

[Telegram.]

No. 63.] PEKING, *November 3, 1894.* (Received November 6.)

I send by telegraph at the expense of China the following:

*The Princes and Ministers of the Tsung-li-Yamén to His Excellency Charles Denby.*

Yesterday we handed your excellency a dispatch concerning the Chinese-Japanese question, but as your excellency has but recently returned, the special points of the

affair may have escaped your attention, and we therefore write this supplementary note. The Emperor desires to maintain and cement the most friendly relations with the President of the United States, and is equally unwilling to wage a great war against Japan. Besides, the United States treaty of 1858 with China, says: "If any other nation should act unjustly or oppressively, the United States will exert their good offices, on being informed of the case, to bring about an amicable arrangement of the question," thus showing their friendly feeling, and accordingly in the present case the difficult circumstance in which China is placed should be laid before you. Will your Government do us the great favor to intervene to stop war and reestablish peace? Such an act would be happy for China, happy for every country.

The above is a special appeal to you. To-day Yamèn convoked the ministers of England, France, Germany, Russia, and myself to ask us to telegraph our Governments to intervene to secure peace. She gives as a basis of negotiation, independence of Korea, payment of war indemnity (amount to be decided conjointly by foreign powers friendly to China) payable by installments.

I recommend mediation.

DENBY.

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*Mr. Denby to Mr. Gresham.*

No. 64.]

LEGATION OF THE UNITED STATES,  
*Peking, November 4, 1894. (Received December 20.)*

SIR: I have the honor to inform you that by request of the Tsung-li-Yamèn the ministers of England, Germany, France, Russia and I had an interview with the Yamèn yesterday.

Prince Kung announced that he requested us to forward to our Governments telegrams invoking their intervention to secure peace with Japan. The prince said that Sun Yu-wen would give an account of the proceedings of Japan up to the time that he became a member of the Yamèn, and he would then complete the history to date. Sun Yu-wen proceeded to make a statement which will be found substantially in the following dispatches from this legation, viz, of August 4, August 5, and October 31, and my telegram of yesterday's date.

Prince Kung omitted to say anything about the effort at mediation made by England in October. Being quite privately interrogated thereupon by the British and French ministers, he admitted that such an effort had been made about the middle of October; that the basis thereof was the acknowledgment of the independence of Korea and the payment of a war indemnity. Being asked why he thought Japan would now accept terms which she had so lately refused (the date of refusal being October 25), he said that Japan had not positively rejected the proposition, but had only refused to accede to it at that particular time, and that its presentation now by the great powers might secure its acceptance.

The foreign ministers agreed that in this great emergency they would forward to their respective Governments the proposition as made, and on the very urgent request of the Yamèn they agreed also to recommend mediation.

Knowing, by common report, that you had refused to join with England in the intervention previously sought, I greatly hesitated to agree to recommend that you should now take part in an effort to mediate.

After this meeting was over I received that portion of my telegram of yesterday which purports to have been furnished by the Yamèn. The Yamèn had been very urgent in requesting that I would wire entire

the message as it reached me. As it, in their view, embodies a strong argument, based on the treaty, in favor of mediation by you, I thought it ought to reach you at the same time as would the telegrams of which the substance has been sent to the Governments above named as well as Italy.

Before the interview closed each of the foreign ministers was handed an identic communication, of which a translation is inclosed. This paper pathetically sets forth the sorrow of the Emperor and Empress Dowager and piteously invokes the aid of the foreign powers in this great crisis.

I have to observe, further, that it was announced by the prince that, in view of the sixtieth anniversary of the birthday of the Empress, as "an act of grace" the foreign ministers would be received in the palace proper for the purpose of presenting their autograph letters of congratulations. Some cavil was had over the term "act of grace," but on inquiry made the prince stated that the ministers having letters of credence could also present them at the same place and time. The ministers concluded that this procedure would establish a precedent which would insure that all future receptions would be at the palace, and no further discussion occurred.

I have, etc.,

CHAS. DENBY.

[Inclosure in No. 64.]

*The Tsung-li-Yamén to Mr. Denby.*

NOVEMBER 3, 1894.

The prince and ministers have the honor to state that since July last war has existed between China and Japan, and as to which nation is in the right or wrong is a matter well known among the powers friendly to China. This need not, therefore, be discussed.

Hostilities have not ceased, and the situation is becoming serious. His Majesty the Emperor dutifully cherishes a filial feeling toward Her Majesty the Empress Dowager, and also cherishes a feeling of kindness and regard for his subjects. He does not wish that Her Majesty should be caused any anxiety or worry and that any distress should befall the living, hence he is willing to agree that hostilities should cease between the two countries. Japan should remove her troops from Manchuria, and China agrees that Korea, in future, shall be independent. China will pay a war indemnity, the amount to be fixed conjointly by the powers friendly to China, and to be paid within a limited period. China will faithfully carry out the agreement made and in due course pay the amounts as they fall due.

As friendly relations have existed for a long time between China and foreign powers, it is believed that they will in time of trouble cooperate and come to China's aid and mediate in the matter, in the hope of establishing peace and quietness.



*Mr. Gresham to Mr. Denby.*

[Telegram.]

No. 65.]

DEPARTMENT OF STATE,  
*Washington, November 6, 1894.*

Prompted by that sincere friendship which the United States constantly desire to show toward China, the President directs that you intimate his readiness to tender his good offices toward bringing the present war with Japan to a close on terms alike honorable to both nations should he be assured that such a tender would be acceptable to both.

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*Mr. Gresham to Mr. Dun.*

[Telegram.]

No. 66.]

DEPARTMENT OF STATE,  
*Washington, November 6, 1894.*

The deplorable war between Japan and China endangers no policy of the United States in Asia. Our attitude toward the belligerents is that of an impartial and friendly neutral, desiring the welfare of both. If the struggle continues without check to Japan's military operations on land and sea, it is not improbable that other powers having interests in that quarter may demand a settlement not favorable to Japan's future security and well-being. Cherishing the most friendly sentiments of regard for Japan, the President directs that you ascertain whether a tender of his good offices in the interests of a peace alike honorable to both nations would be acceptable to the Government at Tokyo.

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*Mr. Gresham to Mr. Denby.*

[Telegram.]

No. 67.]

DEPARTMENT OF STATE,  
*Washington, November 6, 1894.*

My telegram to you of this date was sent before the receipt of your communication of Chinese note requesting the President to tender his good offices toward an honorable termination of the war.

China's similar request addressed to the great European powers may somewhat embarrass the President's freedom of action.

On October 6 the British chargé, under instructions, asked if the United States would join England, Germany, France, and Russia in intervention between China and Japan on the basis of a joint guarantee of Korean independence and suitable indemnity to Japan for war expenses.

On the 12th the President declined any joint intervention. My instruction of to-day on which you are expected to act largely anticipates China's request. The President is hopeful he will speedily be informed that the offer of his mediation alone addressed to-day to both belligerents is acceptable, when he will gladly aid them by conference at this capital or in any other practicable way.

*Mr. Gresham to Mr. Denby.*

[Telegram.]

No. 68.]

DEPARTMENT OF STATE,  
Washington, November 8, 1894.

While President prefers to act alone, he will not decline request to act jointly with other powers simply in determining amount of indemnity if Japan's consent is obtained.

*Mr. Denby to Mr. Gresham.*

No. 69.]

LEGATION OF THE UNITED STATES,  
Peking, November 10, 1894. (Received December 20.)

SIR: On the receipt of your telegrams of November 6 and 7, respectively, I called on the Tsung-li-Yamên. Three ministers were present, Sun Yu-wen, Hsü Yung-i, and Wang Wen-huan.

I stated, in substance, to the ministers that the President of the United States found himself unable to agree to join in intervention or mediation with other powers touching the war between China and Japan, but that, prompted by friendship for China, he would consent to use his good offices toward bringing the present war to a close, if his sole mediation were accepted by both belligerents.

The ministers at first seemed very anxious to accept this offer immediately. After some discussion, however, they came to the conclusion that until they had heard from the five powers, to wit, England, France, Germany, Italy, and Russia, whose intervention they had asked, it would not be prudent to adopt a course of action which ignored them.

They said they had been informed by their minister at Washington that the President had tendered his good offices to Japan, and if Japan accepted them China would instantly do so.

They promised to communicate with me on the subject again as soon as they heard from the powers above named.

I took occasion to say that the course of the Yamên in making a special appeal to the United States and then calling on five other powers to intervene in her behalf was contradictory and embarrassing. This they frankly admitted, but said in excuse that their condition was such that they were compelled to look for aid wherever they might hope to find it.

I have, etc.,

CHARLES DENBY.

*Mr. Denby to Mr. Gresham.*

[Telegram.]

No. 70.]

PEKING, November 10, 1894.  
(Received November 13.)

Yamên favorably inclined to accept sole mediation of the President. If Japan accepts, China will instantly. China embarrassed by the proposition made by them to the five other powers to intervene and can not give positive answer to your proposal until she knows whether they will intervene or not.

*Mr. Gresham to Mr. Dun.*

[Telegram.]

No. 71.]

DEPARTMENT OF STATE,  
Washington, November 13, 1894.

Have you received my cable instruction November 6th?

*Mr. Dun to Mr. Gresham.*

[Telegram.]

No. 72.]

TOKYO, November 14, 1894.  
(Received November 15.)

Cable instructions received 8th; answer delayed by the absence of Japanese minister for foreign affairs. He will return to-night; expect answer to-morrow.

*Mr. Dun to Mr. Gresham.*

[Telegram.]

No. 73.]

TOKYO, November 15, 1894.  
(Received November 15.)

There will be a meeting of the cabinet to-morrow to determine answer to your telegram November 6.

*Mr. Dun to Mr. Gresham.*

No. 74.]

LEGATION OF THE UNITED STATES,  
Tokyo, November 16, 1894. (Received December 10.)

SIR: Your telegraphic instruction of the 6th instant was received by me shortly after midnight of the 7th instant. Unfortunately, Viscount Mutsu, His Imperial Japanese Majesty's minister for foreign affairs, the left Tokyo on that day for Hiroshima, in southern Japan, where had Emperor still is. On the morning of the 8th instant I called upon Mr. Hayashi, vice-minister for foreign affairs, and informed him of the inquiry I was directed by the President to make, and in order that the Japanese Government should understand the nature of my instructions and the friendly and disinterested motives that prompted my Government to send them, I left with him a translation of your telegram for transmission by telegraph to Hiroshima, as an authoritative declaration of the disinterested and friendly neutrality of the United States and the entire absence of selfish interest to shape her policy toward Japan and China in this unhappy war.

Viscount Mutsu returned to Tokyo from Hiroshima with Count Ito, minister-president of state, the evening of the 14th instant. The next day I sought and obtained an interview with the minister for foreign affairs, at which he informed me that he had received at Hiroshima the reading of your telegraphic instruction to me; that while sincerely and



highly appreciating the friendly sentiments expressed by the President for Japan, he could not reply to the inquiry I was instructed to make until after consultation with his colleagues in the cabinet at Tokyo; for that purpose he and Count Ito had hastened their return to Tokyo; and that there would be a meeting of the cabinet to-day, the 16th instant, to determine upon what answer it would be proper for his Government to make. The minister informed me that I would probably be furnished with that answer on the 17th instant. I infer from this that it will be necessary to submit the answer to the Emperor at Hiroshima.

Some weeks since the British minister at this court was instructed by his Government to sound the Japanese Government in regard to their willingness to accept the mediation of Great Britain for the termination of the war, on a basis of a guaranty by the great powers of the independence of Korea and the payment by China of the expenses incurred by Japan in connection with the war. After much delay, Mr. Trench, the British minister, was given the following reply:

The Imperial Government fully appreciate the friendly motives which prompted the inquiry of Her Britannic Majesty's Government. Thus far Japan's arms have been attended with complete success; nevertheless the Imperial Government are inclined to think that, in the present stage of the war, affairs have not made sufficient progress to insure a satisfactory result of negotiations. The Imperial Government can not but refrain from expressing, at this time, their views as to the terms upon which the war could be terminated.

I venture to express the opinion that unless serious reverses should overtake her arms on land and sea, Japan will not feel disposed to entertain overtures of peace until she is directly approached by China, and that terms which might have been acceptable some months since, would not be favorably considered now.

I have, etc.,

EDWIN DUN.

#### NOTE VERBALE.

No. 75]

TOKYO, *November 17, 1894.*

The Imperial Government do not fail in appreciation of the amicable sentiments which induced the Government of the United States to tender their good offices in the interest of peace between Japan and China.

The universal success which has thus far during the conflict attended the arms of Japan, would seem to relieve the Imperial Government of the necessity of invoking the cooperation of friendly powers to bring about a cessation of hostilities.

The Imperial Government have no wish to press their victories beyond the limits which will guarantee to them the just and reasonable fruits of the war. Those limits can not, however, be said to have been reached until China finds herself in a position to approach Japan directly on the subject of peace.

(Transmitted by Mr. Dun to the Department of State in his No. 298, dated November 29, 1894.)

*Mr. Dun to Mr. Gresham.*

[Telegram.]

No. 76.]

TOKYO, November 17, 1894.

Japanese minister for foreign affairs requests in the event of China desiring to approach Japan upon the subject of peace it shall be done through the legation of the United States at Peking.

*Mr. Gresham to Mr. Denby.*

[Telegram.]

No. 77.]

DEPARTMENT OF STATE,

Washington, November 19, 1894.

Our minister Tokyo is advised that any direct overtures for peace made by China to Japan through the American minister at Peking will be considered.

*Mr. Gresham to Mr. Yang Yü.*

No. 78.]

DEPARTMENT OF STATE,

Washington, November 20, 1894.

SIR: I have the honor to inform you that our minister at Tokyo is advised that any direct overtures for peace made by China to Japan through the American minister at Peking will be considered.

Accept, etc.,

W. Q. GRESHAM.

*Mr. Denby to Mr. Gresham.*

No. 79.]

LEGATION OF THE UNITED STATES,

Peking, November (22<sup>d</sup>), 1894. (Received December 28.)

SIR: I have the honor to inform you that I received your telegram of the 19th instant at 8 p. m. the 20th.

Early in the morning of the 20th I sent a note to the Yamên stating that I desired to see the prince and ministers on business of importance to China, and that unless otherwise advised I would go to the Yamên at 11 a. m. An answer came that the Yamên would see me at 3 p. m. At that hour I had an interview with six of the ministers. Prince Kung was not present, because, as was stated, he had pressing duties elsewhere.

I informed the ministers that I was advised by my Government that Japan would consider any direct overtures for peace made by China to her through myself. I stated that I supposed that this intimation from Japan had been brought about by the President in pursuance of the general tenor of the advices which had reached him from China through me.

The ministers seemed quite pleased at the proposal so made. There lurked behind their gratification an idea that Japan made this proposal on account of certain alleged repulses recently suffered at Port Arthur. As I had little faith in these repulses, I did not lend myself to this sus-

picion. I explained very thoroughly through my interpreter the position that I occupied, stating again and again that China had invoked the mediation of the United States, that Japan had apparently concluded that in view of her victories no mediation was necessary, and she demanded that China should herself make direct overtures for peace.

I gave the ministers most distinctly to understand that I proposed to act simply as an intermediary, that I would state the basis of negotiations, but they themselves would have to arrange the details; that my Government, as I understood, would be glad to see peace established, and as Japan desired no mediation, but would consider "direct" overtures from China, I was prepared to send such overtures in cipher to the minister of the United States at Tokyo, to be by him presented to the Government of Japan.

I have, etc.,

CHARLES DENBY.

*Mr. Denby to Mr. Gresham.*

[Telegram.]

No. 80.]

LEGATION OF THE UNITED STATES,  
*Peking, November 23, 1894.*

Yesterday China made through me direct overtures to Japan for peace; basis, independence Korea; war indemnity. Unless peace made ask Secretary of the Navy strengthen *Monocacy* crew fifty men for service Peking.

*Mr. Gresham to Mr. Denby.*

No. 81.]

DEPARTMENT OF STATE,  
*Washington, November 24, 1894.*

SIR: The correspondence growing out of the effort of this Government to make known to China and Japan its willingness to contribute its kindly offices toward the restoration of peace between them has reached a stage where a review of the facts and circumstances becomes proper.

The disposition of certain powers more immediately affected by the war to bring about its termination found expression in a proposal conveyed to this Government by the British chargé d'affaires of the 6th ultimo, inquiring whether the United States would be willing to join England, Germany, France, and Russia in an intervention between China and Japan on the basis of Korea's independence being guaranteed by the powers and the payment to Japan of an indemnity for the expenses of the war.

This important inquiry was considered by the President, who directed reply to be made on the 12th ultimo that, while he earnestly desired China and Japan should speedily agree on terms of peace alike honorable to both and not humiliating to Korea, he could not join the powers mentioned in such an intervention.

The subsequent qualifying statement by Mr. Goschen, on behalf of his Government, that the intervention contemplated would be limited to diplomatic action, and would only take place in the event of a suitable opportunity presenting itself for the adoption of such a course, did not alter the President's judgment.



With a few exceptions the record of our diplomatic history shows no departure from the wise policy of avoiding foreign alliances and embarrassing participation in guaranteeing the independence of distant states. The United States may, however, consistently with that policy, lend their aid to further the efforts of friendly powers unhappily at war to compose their differences whenever they concur in expressing a desire for our impartial mediation.

In several interviews had at the State Department with the Chinese minister prior to the 6th instant, Mr. Yang Yü made known the earnest desire of his Government that the President, in accordance with the general policy of the United States and following notable precedents for such action, should use his good offices toward bringing the war to a close. The offer of the President, as telegraphed to you on the 6th instant, was accordingly made, but not until I had satisfied myself, in the course of frequent friendly conferences with the Japanese envoy, that the benevolent and impartial motives of the President were fully comprehended and appreciated by Japan.

My statements to both the Chinese and Japanese ministers in the course of these interviews made it clear to them that the United States have no policy in Asia to be endangered by the war, and that thus occupying a position of absolute and impartial neutrality toward the belligerents, the President, however solicitous to see the restoration of peace, would in no event go beyond acting as a mere peacemaker upon the request of both parties.

Before sending my telegram of the 6th instant to Mr. Dun, I submitted it to Mr. Kurino, who expressed approval and manifested appreciation of the frank and considerate course I had pursued and of the friendship which the President's action displayed toward Japan.

As you have already been informed, the instruction to you was forwarded on the 6th instant, and was on its way to Peking several hours before your telegram, received on the night of the 5th, communicating the Yamên's note to you of the 3d instant, was placed in my hands.

The latest information from Tokyo leaves no doubt that the Japanese Government understands the way in which the President's coincident offers came about, and is aware that the purpose was simply to have the two Governments know that the President would be disposed to mediate should such mediation be acceptable to Japan as well as China.

With the response of the Japanese Government expressing appreciation of the President's amicable desire and indicating readiness to consider any direct proposal for peace made by China through the United States legation at Peking, the matter now stands.

I am, etc.,

W. Q. GRESHAM.

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*Mr. Gresham to Mr. Dun.*

No. 82.]

DEPARTMENT OF STATE,  
Washington, November 26, 1894.

SIR: I inclose herewith for your information a copy of the Department's instruction of the 24th instant to the minister of the United States at Peking, indicating the reasons which impelled the President to decline the proposal made by the British Government that the United States should join Great Britain, France, Germany, and Russia in an

intervention between China and Japan, and reviewing the facts and circumstances which subsequently induced this Government to make known to China and Japan its willingness to contribute its kindly offices toward the restoration of peace between them.

I am, etc.,

W. Q. GRESHAM.

*Mr. Denby to Mr. Gresham.*

[Telegram.]

No. 83.] PEKING, November 6, 1894. (Received 9.29 a. m.)

Japanese have taken Foochow in the Gulf of Liao-tung, approaching Shan-haikuan; two campaigns, against Moukden, Tientsin.

*Mr. Denby to Mr. Gresham.*

[Telegram.]

No. 84.] PEKING, November 24, 1894. (Received 9.05 a. m.)  
Port Arthur, taken 22d.

*Mr. Dun to Mr. Gresham.*

No. 85.] LEGATION OF THE UNITED STATES,  
Tokyo, Japan, December 7, 1894. (Received December 28.)

SIR: I have the honor to inform you that on the 26th ultimo Mr. Detring, commissioner of customs at Tientsin, arrived at Kobe, Japan, as a special commissioner from Li Hung-chang, viceroy of Chih-li, to Count Ito, His Imperial Japanese Majesty's minister-president of state. It appears that Mr. Detring was the bearer of a letter from Viceroy Li to Count Ito, making overtures for peace. Mr. Detring visited the governor of Iiogo Ken, at Kobe, and requested that the object of his mission be communicated to Count Ito, then at Hiroshima, and that a meeting between himself and Count Ito might be arranged. Mr. Detring's wishes were at once made known to Count Ito, who, after some delay, sent Mr. Ito Mioji, his confidential secretary, to Kobe, with a reply to the effect that, as Mr. Detring was not properly accredited by the Government of China, he could not receive him or recognize him in any way.

Mr. Detring returned to China on the 29th ultimo.

I have, etc.,

EDWIN DUN.

*Mr. Gresham to Mr. Denby.*

No. 86.] DEPARTMENT OF STATE,  
Washington, December 26, 1894.

SIR: I am in receipt of your dispatch of the 10th ultimo, stating that you had communicated to the Yamèn the President's willingness to use his good offices toward bringing the present war to a close if his sole

mediation were accepted by both belligerents, and that China was anxious to accept, but was embarrassed by proposals made to other powers.

As you are aware, it was not until China, through her minister here, had repeatedly requested it that the President expressed his willingness to act as peacemaker.

I am, etc.,

W. Q. GRESHAM.

*Mr. Sill to Mr. Gresham.*

No. 87.]

LEGATION OF THE UNITED STATES,

*Seoul, Korea, December 18, 1894. (Received January 19, 1895.)*

SIR: I have the honor to inform you that the Official Gazette of this court on yesterday had the announcement of the appointment of the new Korean cabinet, a translation of which I inclose herewith.

The cabinet is quite a representative one. The two political exiles who were largely concerned in the emeute of 1884<sup>1</sup> have been made chiefs of departments. Pak Yong-ho, who has sojourned in Japan for the past ten years, being made minister of the department of (interior) home affairs; and So Kuan-pon, lately returned from America, being given the department of law (justice). One other political suspect who has been in hiding in Korea during these ten years, Yun Hong-yul, is the newly appointed inspector of police. This man's son, who will soon return from a ten years' absence, was the first interpreter to this legation.

The so-called "American party" is represented by Pak Chung-yang, late Korean minister at Washington, who retains his position as minister of education. Ye Wan-yong, vice-minister of foreign affairs, and Ye Cha-yun, vice-minister of agriculture and commerce, each served for some time in Washington as Korean chargé d'affaires, while Chung Kyung-won, vice-minister of the department of justice (law), was Korean commissioner to the World's Fair at Chicago.

Kim Ka-kiun, Kwan Chai-hiun, and An Kyung-so, vice-ministers of construction, the army, and finance, have each served as Korean representatives in Japan, and they have been the close friends and supporters of the Japanese in the recent movement for reform in Korea. They were given subordinate positions, it is supposed, with a view to arouse as little as possible, at this stage, the class prejudice of this people, for these men are illegitimate or concubines' sons, and heretofore have been unable to associate on terms of equality with the true nobility. They are bright men, however, as is often the case with men of their class, and they will probably continue to exert an increasing influence over Korean affairs.

Even the "Chinese party" is represented notably by Ye Chong-ha, vice-minister of the department of home affairs, who accompanied the 2,000 Chinese soldiers who went to A-san in June, and thus opened the present war.

The Tai-Wen-kun's (ex-regent's) party is represented by the old man's son, brother of the King, who, as minister of the household, will exert a considerable influence in the palace.

On the 22d of December, the winter solstice, according to the Korean calendar, His Majesty will go to his ancestral halls and swear before the tablets of his ancestors and before the gods of nature to faithfully support the new constitution.

<sup>1</sup> See Foreign Relations of the United States, 1885, pp. 335-343.



The council which has for months been drawing up reform measures is now abolished.

With the sincere support of the Japanese this new cabinet should be able to do something to relieve the distress of their country.

I have, etc.,

JOHN M. B. SILL.

*Mr. Dun to Mr. Gresham.*

No. 88.]

LEGATION OF THE UNITED STATES,

*Tokyo, Japan, December 20, 1894.*

(Received January 11, 1895.)

SIR: You have doubtless seen a telegram from Mr. James Creelman, dated Yokohama, December 11, to the New York World, giving an account of what occurred at Port Arthur after the capture of that place by General Oyama's forces on the 21st of November last. That telegram was retransmitted from New York to Viscount Mutsu, His Imperial Japanese Majesty's minister for foreign affairs, who has sent a copy of it to me. I have also heard from Mr. Creelman's lips his account of the capture of Port Arthur and of what took place immediately after the capture.

Viscount Mutsu returned to Tokyo from Hiroshima on the 15th instant. On that day I sought and obtained an interview with him and related to him the terrible story of the massacre at Port Arthur as I heard it from Mr. Creelman, and asked him if he desired to make any statement in regard to it. Viscount Mutsu replied that a searching investigation had been ordered by his Government to ascertain just what had occurred at Port Arthur; that until the result of that investigation was made known to him, he could not make an exact statement of what occurred; but he said to me frankly that the Japanese Government and people recognized and deplored the fact that a much greater number of Chinese soldiers had been killed at Port Arthur than was necessary; that the Japanese officers and men were maddened by the atrocities committed upon their comrades who had fallen into the hands of the Chinese, and that when Port Arthur was entered by the Japanese troops but little mercy was shown. But, he said, there were but few noncombatants in Port Arthur when it was taken, the peaceful inhabitants of the place having fled days before, and if others than Chinese soldiers were killed by the Japanese, it was by accident, and owing to the impossibility of distinguishing peaceful citizens from the soldiers, who had discarded their uniforms and donned the garb of citizens after the fortifications were taken.

Viscount Mutsu characterized Mr. Creelman's telegram to The World as a gross exaggeration of the truth, sensational in the extreme, and tending to work great injury and injustice to Japan in the eyes of the civilized world.

I have the honor to inclose herewith a copy of a written statement of the affair at Port Arthur, sent to me by Viscount Mutsu on the 19th instant.

I have received no official report from Lieutenant O'Brien, military attaché of this legation, who was also present at the taking of Port Arthur. In a personal letter dated Kin-chow, China, December 3, 1894, received by me from that gentleman, the only reference that he makes to the subject of this dispatch is that "A great many more Chinese have been killed than there was any real need for."

Such are the facts relating to this deplorable incident of war that I am able to submit for your information. It appears to me it is clear that the slaughter of Chinese soldiers at Port Arthur can not be justified by any rules governing the usages of modern civilized warfare (if the term "civilized" can be properly applied to war), but that the account sent to *The World* by Mr. Creelman is sensational in the extreme and a gross exaggeration of what occurred.

Since writing the above I have received the *Japan Mail* of to-day's date, from the columns of which I have clipped the editorial inclosed herewith, entitled "The Port Arthur affair."

I have, etc.,

EDWIN DUN.

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[Inclosure 1 in No. 88.]

There is no question as to the fact that there was more blood shed at Port Arthur than at any other place, and perhaps more than was absolutely necessary; but reports sent abroad by foreign correspondents, especially by the reporter of *The World*, are greatly exaggerated and highly colored, so as to give sensational effect. At the fall of Port Arthur Chinese soldiers, seeing that open resistance was futile, discarded their military uniforms, and, putting on citizens' dress, disguised themselves as peaceful inhabitants of the place, and betook themselves to the vacant houses of the town which the real peaceful inhabitants had quitted some days previous to the attack thereon by the Japanese army. This is the more evident, since the real inhabitants returned to Port Arthur and their homes after peace and order were restored. The Chinese soldiers, while thus disguising themselves, secretly carried arms, and, as they were not accustomed to giving quarter to their enemies and were afraid of being killed in case they surrendered, hid themselves in all sorts of disguise, and when at last they were discovered by the Japanese offered resistance and fought to the last. Some of the peaceful inhabitants who had not left the place before the battle were said to have been ordered to fire and resist, which they did; but most of those found killed at Port Arthur proved to be soldiers in disguise. This is shown from the fact that almost all the corpses found had on them some articles of Chinese military dress inside the outer garments.

One of the foreign correspondents has said that, as most of the killed at Port Arthur bore sword-cut wounds, they presented a more horrible spectacle than if they had received bullet wounds. This may be one of the causes that led some foreigners to exaggerate the facts. The Japanese soldiers were greatly excited by the sight of the fearfully mutilated bodies of their comrades who had been taken prisoners by the Chinese, some of whom had been burnt alive, while others had been crucified. In spite of this the Japanese preserved discipline, and none of those who peacefully surrendered themselves were either killed or maltreated, and about 355 Chinese prisoners who were taken at the fall of Port Arthur have been kindly treated, and are being brought to Tokyo, where they will arrive in a few days.

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[Inclosure 2 in No. 88.—From *The Japan Daily Mail*, Yokohama, December 20, 1894.]

#### THE PORT ARTHUR AFFAIR.

Doubtless the attitude of all fair-minded persons with regard to the Port Arthur affair has been one of suspended judgment. We have not as yet had any authoritative statement of what really occurred at the capture of the fortress. Newspapers have given their own versions of what war correspondents are supposed to have said, and it has been hinted that the correspondent of the *New York World* is about to publish revelations calculated to startle humanity. Altogether, the impression conveyed is that the behavior of the Japanese soldiers was most cruel and blood-thirsty; that they slew combatants and noncombatants without discrimination, and that they continued this fierce slaughter throughout three days following the capture. Among the four newspaper correspondents present at Port Arthur, three were wholly novel to the work they were required to record. They had never before seen anything of war, and even its ordinary incidents must have been shocking to them. Of course we do not desire to suggest that their evidence is without virtue, but the public will certainly be inclined to pay far more attention to the testimony of the



military attachés who accompanied the army, since they necessarily enjoyed the best opportunities of observing the operations, and were, moreover, competent to estimate them by expert standards.

One of these attachés has now returned to Tokyo, and we learn from him that the statements hitherto published by the local foreign press must be received with the greatest reservation, and very largely discounted before the residuum of truth is reached. In the first place, this observer states that the civilians, or at any rate the noncombatants, had all left the town of Port Arthur before the assault of the forts, and that a number of the soldiers had either discarded their uniforms altogether, or thrown civilian garments over them. These men, thus disguised, continues our informant, fought even more resolutely than their comrades, and subsequently escaping into the town maintained their resistance there. The result was a good deal of house-to-house fighting, in which the Japanese used their swords freely, and when a Japanese sets out to use a sword in earnest the results are often terrible. That there was unnecessary cutting down seems pretty certain, and it is very conceivable that the cuts and slashes often assumed a character suggestive of mutilation. But our informant did not see anything from which willful mutilation could fairly be inferred, and he does not believe that genuinely peaceable citizens were killed, or that if a few were killed, the thing was intentional. The sum of his opinion is that the Japanese, employing their swords and rifles under circumstances where discrimination was difficult, and in the sequel of many Chinese barbarities sufficient to have infuriated the soberest troops in the world, were doubtless guilty of excesses, but not by any means of such excesses as have been laid to their charge. Of the death of women or children he neither saw nor heard anything, and his conviction is that there were no women or children in Port Arthur at the time. Finally, he is emphatic in his denial of the allegation that undisciplined slaughter was continued through several days. The whole affair, so far as the town of Port Arthur was concerned, began and ended during the night of the 21st of November. From the following morning nothing of the kind was to be seen.

We think it right to lay these facts before our readers. They are not conclusive, inasmuch as some of the testimony is negative, and negative testimony can not possess much weight as against positive. But they show, at all events, that the stories hitherto circulated must be received with caution, and that the public should be careful about attaching implicit credence to the allegations of writers, some of whom are proverbially disposed to take the harshest possible view of every offense charged against the Japanese, and one seems to be deliberately resolved to work up this affair into a sensation of which he himself will be the central figure.

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*Mr. Sill to Mr. Gresham.*

No. 89.]

LEGATION OF THE UNITED STATES,  
*Seoul, Korea, December 20, 1894.*  
 (Received January 23, 1895.)

SIR: I have the honor to hand you inclosed a translation of a royal decree that appeared in the Official Gazette of this court on the 17th instant.

This decree restricts the residence of Chinese subjects in Korea to the open ports, and forbids them to travel in the interior, except upon the road or river, between Seoul and Chemulpo. It requires them to report their arrival in Korea to the Korean local authorities within twenty-four hours after landing, and to give notice and get permission when they desire to change their residence. Extritorial rights are removed and Chinese subjects are placed under the jurisdiction of the Korean courts.

I have, etc.,

JOHN M. B. SILL.

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[Inclosure in No. 89.—From the Korean Official Gazette, December 17, 1894.]

*The reformed constitutional regulations for the protection of the Chinese merchants.*

The Korean Government having broken the relations of friendship that formerly existed with China, and the treaty having been set aside, Chinese subjects in Korea shall, however, dwell safely and follow their professions peacefully by the privileges or immunities which are now granted by the Korean Government.



His Majesty the King of Korea promulgates these regulations for the Chinese residents in the dominion of Korea at present, that they may dwell in Korea and transact their business peacefully.

These regulations shall be issued and diffused widely, as following:

I. Chinese subjects shall be limited in their residence to the city of Han Yang (Seoul) and the three ports Chemulpo, Fusan, and Wensan.

II. Chinese residents in the above-named limits shall have to report to the local authorities their names, addresses, and special business in order to obtain permission to reside and transact business. Chinese people who wish to remove to another place and exchange their business shall be granted permission by the local officer immediately. The original receipt, which was received from the authority of the country where he lived, must be delivered to the local officer of the place in which he removes within three days.

III. Chinese subjects who transact their business in Korea and import any merchandise into Korea must be quiet and not induce disorder. Any munition of war or anything which is dangerous to Korean political affairs shall not be imported into Korea for sale. These regulations shall come into operation when the police court and custom-house are organized, and all will take heed to follow them.

IV. Chinese subjects who have resided in Korea from former times to now shall have to conform to Article II within thirty days from the date on which this regulation comes into operation if they wish to participate in the aforesaid privileges.

Other Chinese coming to Korea afterwards shall not partake of such privileges or immunities except in the case of the owner or consignor of merchandise who had his factory or property in the dominion of Korea; such will be allowed to return to his business.

Chinese subjects as described before who are allowed to come into Korea shall have to give notice of their arrival to the local authority within twenty-four hours after landing from their voyage.

V. Chinese may travel from Jen-ch'uan (Chemulpo) to Seoul at full liberty whether by land or water, but they may not enter the interior. Any property or merchandise which may have been deposited formerly in the interior must be taken back by a passport, which permission shall be issued from our Government.

VI. The Korean Government shall have the right to arrest, imprison, and expel from out the Kingdom any Chinese resident who is found guilty of breaking the regulations aforesaid in Korea.

VII. Above laws are not intended to work any injury or interruption to Korean officers. Further regulations shall be decided upon by the department of war concerning Chinese residents in accordance with these regulations.

Any officer of the department of war discovering that Chinese people make a disturbance to injure our political affairs, or other doubtful conduct, may arrest and deliver them to the Korean Government at any time to examine them clearly for punishment or expulsion, according to their crimes.

VIII. Chinese subjects in Korea shall be controlled by our Government and criminals shall be judged also by the same. Chinese subjects who make any charge or complaint against Chinese or against Korean subjects shall be given a just trial before the Korean Government.

IX. These regulations shall come into operation from the day on which the same are promulgated.

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*Mr. Dun to Mr. Gresham.*

No. 90.]

LEGATION OF THE UNITED STATES,  
*Tokyo, Japan, January 7, 1895. (Received January 29.)*

SIR: Referring to my dispatch of date December 20, 1894, relative to the Port Arthur affair, I have the honor to inclose herewith an extract from a personal letter to me from Lieut. M. J. O'Brien, military attaché of this legation, Kin-chou, China, December 28, 1894, giving an account of the unfortunate circumstances attending the capture of Port Arthur by the Japanese forces.

Lieutenant O'Brien's statement corresponds with a statement made by Colonel de Wogack, Russian military agent to Japan and China; also with that of Mr. George W. Conner, an American in command of a Japanese transport, who was present at the taking of Port Arthur.

From the statements of these gentlemen it appears to be clear that

there was a slaughter of Chinese soldiers at Port Arthur on the 21st of November, 1894, but that the horrors reported by Mr. Creelman in his communication to the New York World as having taken place subsequent to that date are not true, and that the impression Mr. Creelman's reports are prone to convey is a gross exaggeration of the truth.

I have, etc.,

EDWIN DUN.

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[Inclosure in No. 90.]

KIN-CHOU, LIAU-TUNG PROVINCE, CHINA,

*December 28, 1894.*

DEAR MR. DUN: As to the unfortunate circumstances at Port Arthur I can only say what I saw of it, of course; but I am sorry to say that even that little is such as to lay the army open to the most severe censure, especially as it was quite different from what one should have expected from Marshal Oyama's proclamation. I have seen myself a number of cases of the killing of men who not only could have been made prisoners without resistance, but who were plainly unarmed and in a position of most humble surrender. I have also seen a number of bodies whose hands were tied behind their backs. I have seen bodies very much mutilated and bearing wounds indicating that they were killed with the bayonet, when I know beyond question that where they lie there was no resistance. I have seen these things, not as a result of going around for the purpose of seeing horrors, but in the ordinary course of my observation of the battle and of trips to the forts and main points of interest. I heard talk here among the correspondents of atrocities committed on the 22d and 23d of November. Of these I know nothing whatever. I did not see any atrocities on those days. I heard some firing in the hills around the town, but saw no act of violence on either of those days. I was about the town most of the 22d and during the afternoon of the 23d, but saw no new acts of war or pillage, except the looting of the houses and stores. That went on until there was really nothing much left to loot.

I find some excuse for the acts of the 21st in the barbarities committed by the Chinese. The mutilated heads of some Japanese captives were hung on some small trees at the entrance of the town, and this sight must have enraged the troops. Again, I doubt if the Japanese for a moment thought they were going to have such an easy task in taking the town and sea forts. When they advanced through the town it is my belief that they were momentarily looking for resistance, and with such an idea began to clear the way, with the result that the troops soon got out of hand and made an unnecessary slaughter. I do not think this excuse sufficient, but it ought to be borne in mind that such occurrences happen in all armies and it is hardly fair to expect miracles of the Japanese. At the same time such acts have always met with censure, and so must this case.

To anybody who has—as I have since I joined this army—seen the kindness, courtesy, and gentle ways of the Japanese the recollection of Port Arthur is especially unpleasant. Up to that time the behavior of the army toward the poor people of this country was all that anybody could have wished. Since that time such has also been the case as far as I know. Here at Kin-chou the Japanese have treated the Chinese in the most kind and fair way. Everything that could be done has been done to quiet the Chinese and to insure a just and fair treat-



ment to them. Markets have been opened and fair prices have always been paid. There is no lawlessness and no signs of ill treatment. In truth I think these Chinese are now better off than they have ever been in their lives, and I think they appreciate the fact.

In view of these facts I can not but feel that the acts of this army at Port Arthur ought not to be remembered and its acts at other times forgotten. There may have been special causes leading up to the affair at Port Arthur of which I am not aware. I have no doubt that exaggerated reports have been sent, but not having seen them I am not able to make any criticism of them. I have not up to this time made any report of this phase of the battle, and do so now only because I judge from your letter that reports of it have come to your ears and you may desire more solid foundation for any expression of view which might become necessary hereafter.

I have been very kindly and courteously treated by all the Japanese officers I have met. To Field Marshal Oyama and his staff I am indebted for many comforts, all the more appreciated because of the especially friendly spirit in which they have been extended. To General Kawakami and his subordinates at Hiroshima I am also under many obligations. In fact, I cheerfully bear testimony to the fact that such general kindness and thoughtfulness is more than I could fairly have expected from any army in the world.

Yours, very truly,

M. J. O'BRIEN.

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*Mr. Denby to Mr. Gresham.*

No. 91.]

LEGATION OF THE UNITED STATES,

*Peking, January 10, 1895. (Received March 1.)*

SIR: I inclose herewith a clipping from the North China News of the 20th ultimo, which is a translation of an imperial decree issued in honor of those who distinguished themselves at the Yalu naval battle.

It will be seen that a returned American student, Ch'en Chin-k'uei, was accorded high posthumous honors.

I have, etc.,

CHARLES DENBY.

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[Inclosure in No. 91.—Extract from North China Daily News, December 20, 1894.]

#### THE YALOO NAVAL BATTLE.

Li Hung Chang has telegraphed to us a detailed report of the recent naval battle at Tatungkou, mouth of the Yaloo River, where the vessels of the Peiyang fleet met (September 17, 1894) a numerically superior fleet of the Wojen and defeated them. According to his report, while our ships of war were conveying a fleet of transports to the Yaloo, they were suddenly attacked by the enemy's fleet, numbering 12 to our 10, and after a desperate fight, lasting six hours, succeeded in sinking three of the enemy's ships and severely injuring the rest, but losing four of our own in the battle. They succeeded, however, in disembarking safely the convoy of land troops and in beating off the enemy. This bravery of our naval officers and men greatly pleases us, while we also feel pity for those who have lost their lives in our cause. With reference to the honored dead, Tang Shih-ch'ang, captain of the *Chih-yuen*, and Lin Yung-sheng, captain of the *King-yuen*, are granted extraordinary posthumous honors such as are granted to provincial commanders in chief.

The said Captain Tang further distinguished himself by leading the attack against the enemy and breaking their line of battle, and although destroying an enemy was himself sunk, and, furthermore, although at first saved from a watery grave, refused to survive the loss of his ship, but jumped back into the water, is an example of loyalty and bravery by which, although dead, his deed lives in our



memory to excite enthusiasm. As a further act of grace, we command that a posthumous title of honor be attached to his name. Ch'en Chin-k'uei (a returned American student), first lieutenant of the *Chih-yuen*, is to be granted the extraordinary posthumous honors allowed to a brigadier-general, and his family are to be given compensation proportionate thereto. Huang Kien-hsin, captain of the *Chao-yung*, and Lin Lee-chung, captain of the *Yang-wei*, are to be given the posthumous honors granted to officers of their rank, i. e., colonel or post-captain in the navy.

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*Mr. Denby to Mr. Gresham.*

No. 92.]

LEGATION OF THE UNITED STATES,  
Peking, January 10, 1895. (Received March 1.)

SIR: I inclose a clipping from the North China News of the 19th ultimo, describing the mode of raising a war loan at Shanghai. The loan is to be on the foreign style of a national debt. The bonds issued may be used by merchants and shippers to pay customs duties, and may be circulated as convertible paper of the Empire. They are to bear the signature of the commissioner of customs at Shanghai. Foreigners may subscribe for these bonds.

This whole procedure is a distinct advance toward foreign methods. I have, etc.,

CHARLES DENBY.

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[Inclosure in No. 92.—From the North China Daily News, December 19, 1894.]

#### THE CHINESE WAR LOAN.

His Excellency Lin, acting taotai of this port, has, in obedience to instructions from His Excellency Chang Chih-tung, dated 10th November, issued a proclamation calling upon those native merchants, gentry, and notables who have "any love for their country and gratitude for the manifold mercies of their sovereign" to "joyously" subscribe to a war loan, "with interest and repayment," having the imperial consent and being managed with the strictest impartiality and justice. The proclamation goes on to say that it is proposed to raise from Shanghai alone the sum of 5,000,000 taels, and that any syndicate of men who shall succeed in raising 1,000,000 taels shall have the privilege of asking for an imperial autograph tablet, to be hung up at the grand hall of any institution they like to name—that is, if the said syndicate be composed of men who belong to the managing committee of any charitable association. If they prefer it, these subscribers may name one or two of their number for special imperial recognition.

As this loan is to be on the foreign style of a national debt, the managing bureau shall be at the customs bank of Shanghai and shall be named the "War Loan Bureau of the Board of Revenue for the port of Shanghai."

Furthermore, as the bonds thus issued by the Government may be used by merchants and shippers in lieu of money to pay customs duties, etc., and in view also that these same bonds may be circulated as convertible paper of the empire, His Excellency the Viceroy Chang has obtained the Emperor's consent that the bonds issued at Shanghai to subscribers of the war loan shall also bear the signature of the commissioner of customs of Shanghai, in order that the subscribing public may feel satisfied with the guaranty that their bonds may be used as cash in the payment of customs dues. The taotai, therefore, in issuing this proclamation, feels sure that the rich and loyal of his countrymen in Shanghai, being aware of the immense sums that will be required to carry the present war with Japan to a successful issue, will joyfully and universally respond to the demand made upon them, and he further guarantees that the subscribers will have no cause to repent of their patriotism, and that the levying of yamen fees, or the like, will not be permitted on any account by those in authority. In order to properly protect subscribers, the taotai has, with the consent of the Viceroy Chang and the Governor K'uei Chun, at Soochow, framed the following five rules for the regulation and information of the loyal population of Shanghai and its dependencies:

1. The office for the receipt of the proposed war loan shall be situated within the premises of the customs bank on Hankow road, and shall be named "The War Loan

Bureau of the Board of Revenue for the port of Shanghai." This bureau shall have for its special object the receiving of the war subscriptions and the issuing of bonds as receipts for same, while the money thus received shall be in the charge of the customs bank alone, nor shall any shroffage fees be charged to subscribers.

2. The silver received shall be weighed in accordance with the standard scale of the board of revenue, which is called the K'u-ping or "treasury scale." As the 98 fineness of the Shanghai tael is less than the K'u-ping tael of the board of revenue, every 100 taels of K'u-ping, therefore, is equal to 109.60 of Shanghai taels.

3. The duration of the loan will be as settled upon by the board of revenue with the imperial sanction, namely, two years and a half, and the redemption of the bonds shall take place semiannually. At the end of the first six months the interest on the bonds only shall be paid. After that the redemption of the principal will be divided into four instalments with interest on the bonds in proportion. These periods of redemption will be printed on the bonds, as will also be the amount of interest, which has been fixed at 7 per cent per annum. Additional interest will be paid in the event of intercalary months. If there be any who may desire to use this method of putting out their money at interest, as in the ordinary course of business, they shall be allowed to follow the regulations in force at Canton with reference to the same war loan—that is to say, they shall be allowed to place their money with the Government for the period of six years, in which case special bonds will be issued to them.

4. As the redemption of bonds is to be made by the customs, subscribers shall also be allowed to pay customs dues with these bonds. The official seal guaranteeing the performance of the above clause shall be the seal of the customs taotai.

5. The object of these bonds is to make them negotiable everywhere. Hence, Chinese merchants in their transactions with foreigners may also use them to pay their indebtedness. For this reason the Government will only recognize the person who holds the said bonds, irrespective of nationality. A foreigner, therefore, who is in possession of said bonds is just as much entitled to use them for customs' payments, and to take them to the customs bank for the collection of interest due.

Should any of these bonds be accidentally destroyed by fire or water, the owner must notify the same to the war loan bureau within five days, giving the amount they represent, together with the guarantee of some respectable business firm that his statement is correct.

Special proclamation the 10th day of the eleventh moon of the twentieth year of the reign of Kuang-hsü (December 6, 1894.)

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*Mr. Denby to Mr. Gresham.*

No. 93.]

LEGATION OF THE UNITED STATES,  
*Peking, January 14, 1895. (Received March 7.)*

SIR: There has been a great deal of comment in China and elsewhere on the appointment of Mr. Detring, commissioner of customs at Tientsin, to go to Japan in the interest of peace.

I inclose a clipping from the North China News of the 22d ultimo, which sets out a copy of Mr. Detring's appointment.

It would seem that, strictly speaking, Mr. Detring was the appointee of Li Hung-chang, and was not clothed with the power of a plenipotentiary.

I have, etc.,

CHARLES DENBY.

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[Inclosure in No. 93.—From the North China News, December 22, 1894.]

#### THE DETRING MISSION.

The official document now published proves incontestibly that Mr. Detring, when he visited Japan, was furnished with proper credentials for the purpose of ascertaining on what conditions the Japanese Government would be prepared to open negotiations for peace, and no valid objection could have been made to the method the Chinese Government adopted to bring this about. The assertion that Count Ito had refused to receive Mr. Detring rests entirely on the official statements published by the Japanese Government after Mr. Detring's departure from Japan, but



no intimation to this effect was given to Mr. Detring himself, who was on the point of entering into pourparlers with Japanese officials, as we have before stated, when he received from Prince Kung a telegram of recall. This, it has already been explained, was sent because the Chinese Government had received an answer from America through the United States minister at Peking, accepting the position of intermediary for the United States minister in Japan, with the consent of the Japanese Government. All this goes to prove that the Chinese Government have done all that is right and proper to open negotiations for peace, and that they have unfortunately not been successful as yet lies wholly with the Japanese Government.

The following is a copy of the dispatch sent by Li Hung Chang to Count Ito:

*Earl Li Hung Chang, imperial commissioner, grand secretary, etc., to His Excellency Count Ito, minister-president of the council of state, etc.*

Our Ta Ch'ing dynasty is in the enjoyment of its traditional policy of peace with every nation, save that lately has arisen an unhappy dispute with your country, whereby the usual friendly intercourse has been exchanged for a state of war. Seeing that no inconsiderable calamities have lately fallen upon the people, it is now proposed that both countries temporarily direct their forces by sea and land to cease hostilities.

Memorializing the Throne upon the advisability of this course, the commands of His Imperial Majesty, my august master, have been received as follows:

"Whereas Mr. Detring has held office in our Empire for many years and proved himself faithful, true, and worthy of the highest trust, we command Li Hung Chang to inform him fully and completely of whatever has so far been deliberated upon and decided, and ask him to proceed without delay to Japan and effect a settlement as occasion arises. Mr. Detring will inform us confidentially and with due speed by telegram through Li Hung Chang of the progress of negotiations."

In accordance with His Majesty's command, Mr. Detring, an official holding rank of the first grade, has been directed to proceed forthwith to Tokyo to present this dispatch and learn the conditions upon which peace may be regained and amicable intercourse be reestablished as of old.

Therefore, requesting that your excellency will discuss with Mr. Detring how friendly relations may be restored, this dispatch is written commending the proposal to the favorable consideration of your excellency.

November 18, 1894. Kuang-hsü, 20th year, 10th month, 21st day.

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*Mr. Sill to Mr. Gresham.*

No. 94.]

LEGATION OF THE UNITED STATES,  
*Seoul, Korea, January 15, 1895. (Received February 19.)*

SIR: In reply to your instruction of November 27, asking for facts regarding recent treaty negotiations between Korea and Japan, I have the honor to inform you that, upon urgent request, I have been furnished by the minister for foreign affairs with a copy of a treaty between Korea and Japan, ratified in this city August 26, 1894, a copy of which, with a translation, I now inclose.

I have, etc.,

JOHN M. B. SILL.

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[Inclosure in No. 94.—Translation.]

*The treaty which has been ratified between Korea and Japan on the 23d day of the sixth moon of the five hundred and third year of the foundation of Korea and the 25th day of July of the twenty-seventh year of Meiji [July 25, 1894].*

The Korean Government hereby commissions the envoy extraordinary and minister plenipotentiary of Japan, who resides at Seoul, Korea, to expel the Chinese forces from the Korean Kingdom on behalf of the Korean Government. Both Governments having agreed to mutually aid each other and help in attacking the Chinese and in defending themselves. And in order to insure the success of this joint action of



both countries, the undersigned commissioners of each country are given full power to ratify the treaty, as follows:

## I.

This treaty is an agreement to expel the Chinese forces from the Korean Kingdom, and to strongly establish the independence of Korea, as well as to fulfill the privileges and immunities which are enjoyed by both countries.

## II.

As Japan has undertaken to attack the Chinese, Korea shall have to exert the utmost efforts in all possible ways to facilitate the movements of the Japanese troops to and fro and in preparing provisions for these troops.

## III.

This treaty shall be abolished on the date of making a treaty of amity with China. Wherefore the commissioners of both countries have hereunto set their seals and signatures this 26th day of the seventh moon of the five hundred and third year of Ta Chosen [Korea] and the 26th of August of the twenty-seventh year of Meiji [August 25, 1894].

KIM YUN-SIK,  
(Korean) Minister for Foreign Affairs.  
K. OTORI,

*Envoy Extraordinary and Minister Plenipotentiary of Japan to Korea.*

*Mr. Sill to Mr. Gresham.*

No. 95.]

LEGATION OF THE UNITED STATES,  
*Seoul, Korea, January 17, 1895. (Received February 19.)*

SIR: I have the honor to hand you inclosed a translation of the oath taken by the King of Korea to support the new order of government. It was intended that this oath should be taken on December 22, but it was not taken till January 7, because of the King's illness.

I have, etc.,

JOHN M. B. SILL.

[Inclosure in No. 95.—Translation.]

The oath sworn [taken] at the royal temple by His Majesty the King of Korea while he worshiped [bowed], on the 12th day of the twelfth moon of the five hundred and third year of the foundation of Ta Chosen [Korea], (January 7, 1895.)

## I.

To [I] give up all idea of subjection to China and agree to labor to firmly establish the independence of Korea.

## II.

To arrange the royal succession in such a manner as to distinguish clearly between the heir and the next of kin.

## III.

To decide all political affairs in council with my cabinet in the hall of audience.

## IV.

Her Majesty the Queen, the royal secondary wife [concubine] and the royal relations shall not interfere in such decisions.

## V.

Affairs of state and those of the royal household shall be separated, so as not to produce confusion.

## VI.

The duties and functions of the ministry and department shall be defined in a clear and intelligible manner.

## VII.

No taxes shall be collected from the subjects of the Kingdom except in regular order and by just and legal enactments.

## VIII.

The department of finance shall have charge of the collection of taxes and the disbursement of moneys for the expenses of state.

## IX.

The expenses of the royal household shall be reduced and arranged first, as an example for the different departments and the lesser officials.

## X.

All the expenses of the royal household and of all offices and departments shall be computed for one year in advance, and a budget made of the total expenses of state.

## XI.

The most intelligent of the young men shall be sent to foreign countries to be educated in art, literature, and science.

## XII.

All the officers of the army must be educated in the school for military officers.

## XIII.

The laws governing subjects and criminals shall be clearly defined, and prisoners shall not be punished without being regularly tried. Good laws for the protection of persons and property shall be made.

## XIV.

All officers shall be selected, from the various parts of the country, for their ability and regardless of family.

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*Mr. Denby to Mr. Gresham.*

No. 96.]

LEGATION OF THE UNITED STATES,  
Peking, January 17, 1895. (Received March 7.)

SIR: I have the honor to inclose a translation of a proclamation issued and circulated in Manchuria by the commander of the Japanese forces.

It will be seen that it is well calculated to produce an impression on the Chinese populace.

I have, etc.,

CHARLES DENBY.

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[Inclosure in No. 96.]

*Proclamation issued by the general commanding the Japanese forces (near Newchwang).*

Be it known that I have been appointed by my august sovereign, the Emperor of Japan, to the command of the Japanese forces, cavalry and infantry and artillery, with instructions to proceed to China, who dared to violate the compact between the two countries, thus being guilty of breaking off the intercourse existing between them.

The relation at present existing between China and Japan is a matter that does not involve you people. Therefore those who will obey and not oppose our forces

will be carefully protected. Everyone should obey the injunctions in the proclamation and live quietly, and should not through fear and apprehension flee to other parts.

The proclamation is issued for the information of you people, so that you may know that I, the commander in chief, will treat you with the same humane kindness and benevolence as I would my own people, and I would not dare to cause injury to those who are free from crime or offense. Further, Chinese soldiers who will lay down their arms and come to our camp and surrender themselves, on no account whatever will they suffer punishment by being executed, thus manifesting the divine purpose of Heaven of exemplifying kindness toward humanity.

You people should not be foolish and go astray. Do not make a mistake and willingly tread into the net of the law.

I, commander in chief, positively and peremptorily carry out the law, and will do what I say. Let it not be said that fair warning was not given. Let all tremble and obey the special proclamation issued in the twenty-seventh year of Ming Chih (Meiji, i. e., 1894).

Posted in Chun Ta Liu Chin tao.

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*Mr. Denby to Mr. Gresham.*

No. 97.]

LEGATION OF THE UNITED STATES,  
Peking, January 18, 1895. (Received March 7.)

SIR: The general Wei Ju-kuei was executed yesterday. He commanded the Sheng corps, which was composed of the best of the troops of Li Hung-chang. I inclose a translation of the imperial decree sentencing him to decapitation.

I have, etc.,

CHARLES DENBY.

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[Inclosure in No. 97.—Translation.]

*A decree published in the manuscript Peking Gazette of January 16, 1895.*

The board of punishments, in obedience to our instructions, have memorialized us fixing the penalty that should be meted out to the degraded officer, Wei Ju-kuei, as a form of punishment. The board further submits in detail the crimes of the said degraded officer, which are considered of a grave nature, and it is requested that an expression of our will be issued in accordance with the suggestions made.

The degraded brigade-general, Wei Ju-kuei, in ordinary times commanded the troops under his charge in an indifferent manner, manifesting scant kindness toward them, and failed to enforce any discipline whatever.

In the present instance he had command of the Sheng corps, and on the eve of battle he gradually retreated, and thus defeated our cause. He furthermore illicitly extorted the soldiers' pay and rations and allowed his men to run riot, plundering the people. The crimes he has committed are indeed very great, and if the correct form of punishment be not inflicted upon him how can there be any respect shown for our military discipline or any warning made known to others not to follow his bad example.

Let Wei Ju-kuei, according to law, be decapitated, the sentence of death to be carried out at once. The president of the board of punishments, Hsüeh Jen-sheng, is appointed to superintend the execution.

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*Mr. Sill to Mr. Gresham.*

No. 98.]

LEGATION OF THE UNITED STATES,  
Seoul, Korea, January 18, 1895. (Received February 19.)

SIR: Referring to my dispatch of yesterday's date, I now have the honor to send you a translation of the King's order in council, which order appeared in the Official Gazette of January 11. In this order His



Majesty begins to put into force some of the reforms mentioned in the oath, a copy of which was inclosed in the above dispatch of January 17.

I have, etc.,

JOHN M. B. SILL.

[Inclosure in No. 98.—Extract from Court Gazette, Seoul, Korea.]

*His Majesty's orders in council, January 11, 1895.*

The ceremony of audience when ministers of departments and other officials attend the King shall be simplified.

Political officers shall be decided upon after consultation with me personally in council.

The ministry shall hereafter be called "the cabinet." The place of meeting shall be removed into the palace, to the place called *Su chung fun*.

The court dress shall hereafter be black. The ordinary ceremonial dress shall be long overall gown, embroidered breast and back piece, official hat and boots.

Only domestic silk and cotton shall be used for these uniforms.

These styles shall be worn upon and after the new year (January 24).

Civil and military governors must stop reporting direct to His Majesty. They shall hereafter report first to the council, which shall in turn lay the matter before His Majesty.

The department of home affairs shall keep posted regarding the conduct of every office by the employment of an inspector. The errors and abuses shall thus be corrected.

The reduction of expenses shall be decided after due consultation.

Officials above the lower secretaries need not dismount from their horses or chairs till they reach the gate of the royal courtyard (may ride into the palace grounds).

False accusations made against officers in memorials to His Majesty shall be severely dealt with. The accuser shall be arrested and tried for his offense.

Prisoners falsely accused shall be released. Such prisoners, falsely accused, who may have died in prison shall be restored to office. (Post mortem honors.)

Instruments of torture shall only be used upon "death criminals." The lash, cangue, and manacles can only be used on criminals (not on suspects). Aged and very young criminals, as well as light offenders, shall not wear the cangue and manacles, except murderers, thieves, and incendiaries.

*Mr. Dun to Mr. Gresham.*

No. 99.]

LEGATION OF THE UNITED STATES,  
*Tokyo, Japan, February 4, 1895. (Received March 1.)*

SIR: Mr. Hayashi, vice-minister for foreign affairs, visited me at this legation yesterday morning and informed me he had received a telegram from Viscount Mutsu, at Hiroshima, stating that at a meeting, on the 1st instant, of the Japanese and Chinese plenipotentiaries appointed by the two powers to negotiate terms of peace, the credentials, or powers, of the Chinese plenipotentiaries having been submitted to the Japanese plenipotentiaries, Count Ito and Viscount Mutsu, were found by them to be defective and unsatisfactory, and, in consequence, the Chinese plenipotentiaries were informed, at a second meeting on 2d instant, that the Japanese plenipotentiaries must decline to continue the negotiations. They were, however, assured by Count Ito, minister president of state, that should China send properly qualified plenipotentiaries to Japan with full powers to conclude peace the Japanese Government would receive them and reopen negotiations.

The Chinese envoys leave Hiroshima to-day for Nagasaki and from thence to China by the first steamer for Shanghai.

I have the honor to inclose herewith translation copy of the credentials submitted by the Chinese plenipotentiaries, as telegraphed by Viscount Mutsu to Mr. Hayashi and handed to me by the latter. From

this translation it would seem that no power or authority whatever was conferred upon the Chinese plenipotentiaries to conclude or sign anything, they being required to submit all questions that arose during the negotiations to the Tsung-li-Yamên for determination.

In this connection I have the honor to inclose herewith an editorial clipped from the Japan Mail of to-day's date, entitled "Failure of the peace embassy."

I had the honor to inform you yesterday by telegraph that the peace negotiations had been broken off. I also telegraphed the same information to Minister Denby, at Peking.

I have, etc.,

EDWIN DUN.

[Inclosure 1 in No. 99.]

*Literal translation of authority of Chinese plenipotentiaries.*

By decree we do appoint [names and rank of Chinese plenipotentiaries] to meet and negotiate the matter with plenipotentiaries appointed by Japan. You will, however, telegraph to Tsung-li-Yamên for the purpose of obtaining our command, by which you will abide. Members of your mission are placed under your control. You will carry out your mission in faithful and diligent manner, and will fulfill trust we have reposed in you. Respect this seal.

[Inclosure 2 in No. 99.—The Japan Daily Mail, February 4, 1895.]

FAILURE OF THE PEACE EMBASSY.

The hopes of peace that were based on the coming of the Chinese envoys have proved abortive. On the 1st instant the envoys met the Japanese plenipotentiaries in the conference chamber of the Hiroshima prefectural offices, and the credentials of each side were submitted. Subsequently the powers of the Chinese embassy were examined, when it was found that they were signally defective. In the first place, no mention whatever was made about the object of the mission; in the second, the envoys were not given power to conclude any arrangement, and in the third they were distinctly instructed simply to act as conveyers of messages between the Japanese Government and the Tsung-li-Yamên.

Under these circumstances, it is plain that to open negotiations was out of the question. The Japanese plenipotentiaries therefore invited the Chinese envoys to another conference on the following day. At 4.40 p. m. their excellencies Chang and Shao arrived at the council chamber, where Count Ito and Viscount Mutsu were already waiting. Some questions were addressed to the envoys with reference to their credentials, and finally Count Ito informed them that as their powers were quite inadequate, the Japanese plenipotentiaries must decline to confer with them. His excellency added, however, that Japan would be willing to receive any plenipotentiaries coming duly accredited.

China's conduct in this matter seems open to one interpretation only; she is not in earnest. Yet even that explanation is insufficient. It is inconceivable that she can have expected to betray Japan into the flagrant blunder of negotiating with envoys of such a character. She had received ample warning that the question of credentials would be carefully scrutinized. Communications on that very subject had passed between Peking and Tokyo, their issue being an emphatic assurance from the Chinese Government that its envoys were invested with due plenipotentiary authority. It follows, therefore, that China took the trouble of sending a peace embassy with full knowledge that it must fail on the threshold; fail, not because of Japan's greed, but because of China's deliberate neglect of essential technicalities. We say nothing of the insulting triviality of her assurances to Japan. That phase of the affair need not be discussed here. The perplexing point is that China should have put herself so palpably in the wrong. Her diplomacy is even worse than her military display. Those that did not believe in the integrity of her peaceful purpose—and we confess that we were among the number—imagined that she was merely playing to the European gallery. Her last resource lay in Western intervention. Could she have successfully posed as anxious for peace herself, while forcing Japan into the position of unjustly prosecuting the war, she would have established a strong claim upon the active sympathy of States already most desirous of seeing the sword sheathed.



She might, perhaps, have managed to contrive such a situation. We do not think that she could, for we know well how reasonable is the mood of the statesmen now directing Japan's affairs. Still, the effort was worth making, and it was in pursuit of such an object, as we imagined, that she deputed their excellencies Chang and Shao to come and talk peace at Hiroshima. But how could she hope for the smallest scintilla of success when she intrusted the unhappy envoys with credentials obviously farcical? To choose men of comparatively insignificant rank was an intelligible part of the play, but to invest them with the functions of mere telegraph clerks was to reduce the whole business to the level of light comedy.

We can scarcely imagine that the Chinese Government aspires to be pitied for ignorance of the alphabet of international etiquette. But what is its ambition? We can not tell. The incident must be added to the catalogue of incomprehensible items constituting the history of the present war. Infinitely regrettable, however, is this new obstacle needlessly thrust into the path to peace. Count Ito and Viscount Mutsu acted wisely in assuring China, that despite the unpleasant necessity imposed on them by her conduct in connection with this embassy, Japan would always be ready to receive duly accredited envoys. But even that assurance will not appreciably lessen the greatly increased reluctance that China must feel to figure again as a suppliant.

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*Mr. Dun to Mr. Gresham.*

No. 100.]

LEGATION OF THE UNITED STATES,  
*Tokyo, Japan, February 5, 1895.* (Received March 1.)

SIR: As indicative of public sentiment in Japan in regard to the prosecution of the war with China, I have the honor to embody below a translation of a resolution which was unanimously adopted by the lower house of the Imperial Diet on the 1st instant. The translation reads as follows:

Whereas, in the opinion of this house, the time is still distant when the objects on account of which war was proclaimed by His Majesty will be accomplished and the country's prestige established, therefore this house is prepared to grant whatever amount of appropriations may be necessary for the purposes of military expenditures, and adopts this resolution with the express intention of making known its sentiments on the subject.

I have the honor, etc.,

EDWIN DUN.

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*Mr. Dun to Mr. Gresham.*

No. 101.]

LEGATION OF THE UNITED STATES,  
*Tokyo, Japan, February 15, 1895.* (Received March 7.)

SIR: I have the honor to inclose herewith official translations, prepared at the Japanese foreign office, of the documents and communications which passed between the Japanese and Chinese plenipotentiaries at the late peace conference held at Hiroshima on the 1st and 2d days of the current month.

These papers were laid before the Imperial Diet by the vice-minister for foreign affairs on the 6th instant.

I have, etc.,

EDWIN DUN.

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[Inclosure in No. 101.—The Japan Daily Mail, February 8, 1895.]

THE PEACE CONFERENCE AT HIROSHIMA.

The following are official translations of the documents laid before the Imperial Diet by the vice-minister of state for foreign affairs on the 6th instant:

[Translation.]

Viscount Mutsu Munemitsu, Junii, first class of the Imperial Order of the Sacred Treasure, His Imperial Majesty's minister of state for foreign affairs, has the honour



to announce to their excellencies, the plenipotentiaries of His Majesty the Emperor of China that His Majesty the Emperor of Japan has appointed His Excellency Count Ito Hirobumi, Junii, grand cross of the Imperial Order of Paulownia, His Imperial Majesty's minister president of state, and the undersigned as his plenipotentiaries to conclude with the duly authorized plenipotentiaries of China preliminaries of peace, and has confided to them full powers for that purpose.

[L. S.]

Viscount MUTSU MUNEMITSU,  
*H. I. M.'s Minister of State for Foreign Affairs.*

Hiroshima, the 31st day of the 1st month of the 28th year of Meiji.

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[Translation.]

The undersigned, His Imperial Majesty's plenipotentiaries, have the honour to acquaint their excellencies the plenipotentiaries of His Majesty the Emperor of China that the meeting of the plenipotentiaries of the two powers is appointed to take place at the Hiroshima Kencho on the 1st day of the 2nd month of the 28th year of Meiji, at 11 o'clock a. m.

The undersigned will on that occasion be prepared to make with the Chinese plenipotentiaries a reciprocal exchange of full powers.

Count ITO HIROBUMI,  
Viscount MUTSU MUNEMITSU,  
*H. I. M.'s Plenipotentiaries.*

Hiroshima, the 31st day of the 1st month of the 28th year of Meiji.

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[The 6th day of the 1st moon, the 21st year of Kwang-Su.]

*Their Excellencies Count Ito and Viscount Mutsu, Plenipotentiaries of His Majesty the Emperor of Japan:*

We have the honour to inform your excellencies that, in obedience to the command of His Majesty the Emperor of China, we proceeded to Japan with the imperial letter and arrived at Hiroshima on the 6th day of the 1st moon of the 21st year of Kwang-Su.

We beg to acknowledge the receipt of your excellencies' note to the effect that you have been especially appointed by His Majesty the Emperor of Japan to be plenipotentiaries for the purpose of concluding with us preliminaries of peace, and to express high appreciation of the fact that Japan has not forgotten her old friendship.

We were about to request your excellencies to meet us by asking you to appoint the time of such meeting when we had again the honour to receive your note communicating to us that the meeting will be opened at the Hiroshima Kencho at 11 o'clock on the 1st day of the 2nd month.

We beg in reply to say that we will, in compliance with your desire, attend the meeting at the appointed day and hour.

We have the honour to convey to your excellencies the assurance of our highest consideration.

CHANG IN HOON,  
*Holding the Rank of President of a Board, Minister of the Tsung-li-Yamen,  
and Junior Vice-President of the Board of Revenue.*

SHAO YU LIEN,  
*An Officer of the Button of the 1st Rank and Acting Governor of Hunan,  
Plenipotentiaries of His Majesty the Emperor of China.*

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[Translation.]

Mutsuhito, by the grace of heaven, Emperor of Japan and seated on the throne occupied by the same dynasty from time immemorial. To all to whom these presents shall come, greeting:

With a view to the restoration of peace between our Empire and that of China in order to maintain the peace of the Orient:

We, reposing special trust and confidence in Count Ito Hirobumi, Junii, grand cross of the Imperial Order of Paulownia, our minister president of state, and Viscount Mutsu Munemitsu, Junii, first class of the Imperial Order of the Sacred Treas-

ure, our minister of state for foreign affairs, and having full knowledge of their wisdom and ability, do hereby name them as our plenipotentiaries.

We have given to our plenipotentiaries full powers to meet and treat, either separately or conjointly, with the plenipotentiaries of China, and to conclude and sign preliminaries of peace.

We shall examine all stipulations which our said plenipotentiaries may agree upon and, finding such stipulations proper and in good and due form, we shall ratify them.

In witness whereof we have hereunto set our signature and caused the great seal of the Empire to be affixed.

Done at Hiroshima, this thirty-first day of the month of the twenty-eighth year of Meiji, corresponding to the two thousand five hundred and fifty-fifth year from the coronation of the Emperor Jimmu.

(Seal of the Empire.)

(Countersigned)

(Sign Manual.)

Count ITO HIROBUMI,  
*Minister President of State.*

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[Translation.]

MEMORANDUM.

His Imperial Majesty's plenipotentiaries have the honour to announce that the full powers which they have just communicated to the plenipotentiaries of His Majesty the Emperor of China, embody all the authority which His Majesty the Emperor of Japan has confided to them in connection with the negotiation and conclusion of peace.

In order to avoid, as far as possible, any future misunderstanding the Japanese plenipotentiaries desire reciprocally to be categorically informed in writing whether the full powers which have been communicated to them by the Chinese plenipotentiaries, but which they have not as yet examined, embody all the authority confided by His Majesty the Emperor of China to the Chinese plenipotentiaries in connection with the negotiation and conclusion of peace.

Hiroshima, the 1st day of the 2nd month of the 28th year of Meiji.

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[English translation accompanied by the Chinese original.]

*To the Plenipotentiaries of His Majesty the Emperor of Japan:*

We have the honour to state that you handed to us on the 7th day of the 1st moon of the 21st year of Kuang-su, your commission from your Imperial Majesty, and at the same time a memorandum in which you ask of us a written reply respecting our full powers.

We beg to state in reply that our commissions, handed to you at the same time in exchange, embody full powers given by our Imperial Majesty for the negotiation and conclusion of peace, with authority to conclude articles to that end and to sign them. In order to insure the more prompt execution of the treaty we may agree upon, we shall wire the terms for Imperial sanction and fix the date for signature; after which the same shall be taken to China for examination by His Imperial Chinese Majesty, and, being found proper and in good and due form, will be ratified.

8th day of the 1st moon of the 21st year of Kuang-su.

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[As translated by the Japanese Government.]

By decree we do appoint (Chang In Hoon, holding the rank of president of a board, minister of the Tsung-li-Yamen and junior vice-president of the board of revenue, and Shao Yu Lien, an officer of the button of the first rank, and acting governor of Hunan) as our plenipotentiaries to meet and negotiate the matter with the plenipotentiaries appointed by Japan.

You will, however, telegraph to the Tsung-li-Yamen for the purpose of obtaining our commands by which you will abide.

The members of your mission are placed under your control.

You will carry out your mission in a faithful and diligent manner and will fulfil the trust we have reposed in you.

Respect this!

Seal of Imperial Command.

(The date.)



[Speech addressed by His Excellency Count Ito, to Their Excellencies Chang In Hoon and Shao Yu Lien, at the conference of the 2nd February, 1895.]

The measure which my colleague and myself find it necessary at this moment to adopt, is the logical and inevitable result of a situation for which we are in no wise responsible.

China has hitherto held herself almost entirely aloof from other powers, and while she has in some instances enjoyed the advantages accruing to her as a member of the family of nations, she has perhaps more frequently denied the responsibilities of that relation. She has pursued a policy of isolation and distrust, and consequently her external relations have not been characterized by that frankness and good faith which are essential to good neighborhood.

Instances are not wanting in which Chinese commissioners, after having formally agreed to international compacts, have refused to affix their seals, and cases might be cited in which treaties solemnly concluded have been unceremoniously and without apparent reason, repudiated.

Those unfortunate occurrences find a sufficient explanation in the fact that China was not on those occasions seriously in earnest, but beyond that it might be said with truth that the officials who were designated to carry on negotiations had not been clothed with the necessary authority for the purpose.

It has from the first been the wish of Japan to avoid results which history teaches her are liable to be the outcome of negotiations with Chinese officials who are not clothed with full powers in the sense in which that term is usually understood. Consequently the Imperial Government made it a condition precedent to any peace negotiations that the Chinese plenipotentiaries should be furnished with full powers to conclude peace, and it was only upon receiving positive assurance from the Chinese Government that that condition precedent had been complied with and that the Chinese plenipotentiaries were on their way to Japan that His Majesty the Emperor of Japan conferred upon my colleague and myself full powers to conclude and sign preliminaries of peace with the plenipotentiaries of China.

That your excellencies' powers are, notwithstanding that assurance, fatally defective is to me a sure indication that the Government of China is not yet really solicitous for peace.

Criticism is nearly exhausted by a simple comparison of the two instruments which were reciprocally exchanged at this board yesterday, but it is not out of place to point out that one fulfils the definition which is usually given among civilized States to the term full powers, while the other is destitute of nearly all those qualities which are regarded as essential to such powers; it even fails to indicate the subject upon which your excellencies are to negotiate; it does not authorize your excellencies to conclude or sign anything; it is silent on the subject of the subsequent imperial ratification of your excellencies' acts. In short, it would seem that the authority which has been conferred upon your excellencies would be completely fulfilled by your reporting to your Government what my colleague and myself might have to say.

In this situation it would be impossible for us to continue negotiations.

It may be urged that usage has not been entirely ignored in this instance. I can not admit the sufficiency of such an explanation. I disclaim any right to interfere with the purely domestic customs of China, but I deem it not only my right but my duty to insist that in international concerns affecting my own country the peculiar methods of China shall yield to the superior rules of international intercourse.

The restoration of peace is a matter of the greatest importance. To bring about a reestablishment of amicable relations it is not only necessary that treaties with that object in view should be signed, but it is imperative that the engagements should be fulfilled in good faith.

While Japan has found no reason to approach China on the subject of peace, she nevertheless feels bound, in deference to that civilization which she represents, to listen to any bona fide overtures which China may advance, but she will decline to take part in the future in any fruitless negotiations or to become a party to a paper peace. The terms which Japan agrees to will be scrupulously observed by her, and she will at the same time insist upon a like observance of the terms by China.

Whenever, therefore, China finds herself seriously and sincerely desirous of peace and will confide actual full powers to Chinese officials whose names and positions will serve as an assurance that the terms which they may agree to will be confirmed and carried out in good faith, Japan will be prepared to enter upon new negotiations.

[Translation.]

#### MEMORANDUM.

The Imperial Government repeatedly declared, through the United States representatives at Tokyo and Peking, that the appointment of plenipotentiaries with full powers to conclude peace was an indispensable prerequisite to negotiations on the subject of peace.



His Imperial Majesty's plenipotentiaries, however, find that the authorization which their excellencies, the plenipotentiaries of His Majesty the Emperor of China, communicated to them on the 1st instant, is wholly inadequate for the purpose for which it is claimed it was issued. It lacks nearly all the essential attributes of full powers as usually understood.

The Imperial Government have not receded from the position which they announced to the representatives of the United States that they had taken on the subject of full powers, and the imperial Japanese plenipotentiaries, having been intrusted by His Majesty the Emperor of Japan with actual, proper, and complete full powers, can not consent to treat with plenipotentiaries of His Majesty the Emperor of China who are only authorized to discuss matters, to report to the Tsung-li-Yamén, and to obtain subsequent commands of the Throne by which they are to be guided.

Under these circumstances it only remains for the plenipotentiaries of His Majesty the Emperor of Japan to declare the present negotiation at an end.

Hiroshima, the 2nd day of the 2nd month of the 28th year Meiji.

*Mr. Denby to Mr. Gresham.*

[Telegram.]

No. 102.]

PEKING, February 19, 1895.

I sent yesterday a telegram to Japan stating that Li Hung-chang had been named plenipotentiary. His honors were restored to-day. He will hand over his duties as viceroy. He will be here the 21st instant. Japan was asked to name a place of meeting of plenipotentiaries. His credentials will be full powers to conclude and to sign peace treaty.

*Mr. Dun to Mr. Gresham.*

No. 103.]

LEGATION OF THE UNITED STATES,  
Tokyo, Japan, February 27, 1895. (Received March 21.)

SIR: I have the honor to inclose herewith translation reading of a telegram in Japanese received from Lieut. M. J. O'Brien, military attaché of this legation, in which he reports the surrender of the Chinese naval and military forces at Wei-hai Wei.

I have, etc.,

EDWIN DUN.

[Inclosure in No. 103.—Translation from Japanese.]

*Reading of a telegram received from Lieut. M. J. O'Brien, military attaché of the United States legation, Tokyo.*

PORT ARTHUR, February 19, 1895—10.50 a. m.  
FUSAN, February 20, 1895—12.05 p. m.

AMERICAN MINISTER, Tokyo:

The Chinese army has surrendered the forts on Liu-kung tao (island), together with the remainder of the fleet. The Japanese torpedo boats have sunk the *Ping-Yuen* and several armored cruisers besides. Two of the Japanese torpedo boats also received injuries. Another Chinese cruiser was sunk by shells. On the night of the 6th 13 Chinese torpedo boats attempted to escape, but before reaching Chefoo were either sunk or captured. According to the Chinese reports Admiral Ting and several officers have committed suicide. The number of surrendered Chi-

nese soldiers is 2,400. The intention is to keep the officers prisoners, and to let the soldiers go outside the Japanese lines, taking away their arms, and furnishing them with two days' rations. These matters should be reported to the American War Department by mail.

Lieutenant O'BRIEN,  
*Attaché of American Legation.*

*Mr. Dun to Mr. Gresham.*

No. 104.]

LEGATION OF THE UNITED STATES,  
*Tokyo, Japan, February 27, 1895. (Received March 21.)*

SIR: I have the honor to inclose herewith a clipping from the Japan Mail of the 25th instant, giving a translation of a speech on the subject of the proposed Korean loan delivered by Count Ito, minister president of state, before the lower house of the Imperial Diet on the 21st instant.

The bill, as recommended by the Government, authorizing a loan of 3,000,000 yen to the Korean Government has been passed by the House of Representatives.

I have, etc.,

EDWIN DUN.

[Inclosure in No. 104.—The Japan Daily Mail, February 25, 1895.]

#### THE PROPOSED KOREAN LOAN.

The following is a translation of the speech delivered by His Excellency Count Ito, minister president of state, in the House of Representatives, on the 21st instant, in connection with the proposed loan of 3,000,000 yen to the Korean Government:

GENTLEMEN: I have presented a special budget to the house. Its object is to lend money to Korea, which step is temporarily necessitated by the present financial difficulties of that country. As to the condition of Korea since last year, you are well aware that the Tonghak rebellion, which commenced early last summer, was followed by a failure of the harvest, and then came the war between Japan and China. Korea has ever since stood as our ally, and being still to-day in the midst of the war, our Government can not remain unconcerned, and is therefore brought under the necessity of making a loan to Korea. You are also aware that even to-day there are still some remnants of the Tonghak rebels; but the King and the Government of Korea, acting upon the advice of our Government, are desirous to enforce reforms without delay.

With regard to the Korean reforms, our Government proposed in June last year to the Chinese Government that Japan and China should jointly carry them out, with the object of maintaining Korea's independence. But the refusal of China in this matter led at length to the present great war. Since then our country has lent its aid to Korea to maintain her independence by our own power and out of pity for her isolation and weakness, and now, she having fallen into her present difficulties, we can not avoid the necessity of giving her temporary assistance. The Korean Government is planning to raise a loan sooner or later to meet the various national expenditures; and as soon as the plan is matured we intend to require the repayment of our own loan. Such being the unavoidable circumstances, I desire that you will, after full discussion, give your speedy consent to the budget. If there are questions to be put regarding details, it is the intention of the Government to send a delegate conversant with the matter to give explanations at the meeting of the special committee. Further, as I shortly leave the capital and return to the headquarters, I do not think I shall have an opportunity of meeting you gentlemen again this session. I also express my desire that a decision on the supplementary budget of war expenditures will be quickly given.

In reply to Mr. Haseba Sumitaka, who desired to know the general policy of the Government with regard to the internal administration of Korea and the attitude of foreign powers toward that policy, the minister president said:

I do not think that the policy of our Government toward Korea has once changed since the opening of relations with that country. China regarding her as a tribu-



tary State and we considering her an independent power, our views have clashed from the outset. Though it need hardly be said that there are at times changes of circumstances more or less marked in one power's relations with another, still I can say confidently that the general policy of our country toward Korea has not up to to-day undergone change. In proof of this I may state that, while China, declaring the autonomy of Korea, generally evaded responsibility for that country's foreign relations, she attempted to interfere forcibly in her internal administration. Now there is no nation that has closer and more intimate relations with Korea than ours, and therefore Chinese interference became a constant obstruction to the friendly relations between the two countries.

In matters of small importance we could not go on removing that obstruction perpetually. I do not know if you, gentlemen, have cause to condemn the policy of our Government since the dispatch of our embassy to Korea in 1876 and the conclusion of a commercial treaty; but leaving that apart as an unimportant branch of the history of the past and coming down to the events of the last year, we have at length clear evidence from China's making the Tonghak rebellion a pretext; from the internal condition of Korea before the outbreak of the rebellion, and from the action and behavior of the officials dispatched from China, that efforts were made to sever the relations between our country and Korea. There also exists conclusive evidence that on the King of Korea's appealing, or rather being compelled to appeal, to China for the dispatch of troops, China intended by using the suppression of the Tonghak rebellion as a pretext to destroy the independence of Korea and make her in reality a tributary State. Thereupon our country was obliged to wage war; for though I have always firmly believed that war is not only a matter of the greatest national importance, but also that a nation as such should not lightly wage it, yet if we had borne the matter in silence and remained passive to the known designs of China, our attitude would have affected not only our interests, but our honor as well, or rather the maintenance of our national dignity, and we were therefore compelled as a result to carry out the general policy to which we have consistently adhered since the conclusion of the treaty of 1876. [Hear! hear!]

But, as all the world knows, Korea is a truly poor and weak country. Though I do not think that the Kingdom is wanting in natural resources, still there exists as yet not the least means or method of exploiting such resources. And the nation also is content with inaction and temporizing methods, and does little more than pass the day without effort of any kind. Both high and low live in a state of indolence. I believe this arises from absolute ignorance of the present condition of the world; and as the necessity of making such a nation independent not only concerns Korea but has also a great bearing on our Empire, which is separated from Korea by a narrow strip of water, I am confident that the maintenance of her independence has also a most important relation to the position of our Empire as a nation. And, therefore, though we had hoped by effecting reforms in Korea, to maintain her independence in conjunction with China, our Government, though China's intention being, as I have already stated, different from ours, assumed alone this responsibility. As to the question, then, of the interference of other powers, I firmly believe that there is no reason for any power to object to our sympathy with the isolated and weak or to our extending aid to others to maintain their independence. [Hear! hear!] To realize and preserve such independence in the case of Korea appears to be a most difficult undertaking, but we can not escape from the duty imposed upon us.

The necessity, as I stated at the outset, now causes us to lend to Korea 3,000,000 yen; and on inquiring into the reforms contemplated I do not think that Korea can rise alone by a mere change of officials at Seoul, or by the suppression of the Tonghaks. Therefore, when the Korean rebellion is suppressed the provincial government must be reorganized, access to national resources must be provided for by the improvement of the means of transportation; and while the country may be unable to maintain a large army, still sufficient provision must be made to guarantee peace throughout the Kingdom. Before rapid progress can be made in these directions the extent of Korea's national resources must be fully investigated. Though of course our principal object is to make the Koreans themselves maintain their own independence, it is necessary for us to give them aid for that purpose. I need not point out that there is naturally a distinction between principal and accessory. [Hear! hear!] Though there may be in the details of the reforms some matters not yet definitely determined and others that are already determined, I do not think there is any necessity to make special mention of either. Our Government has not in the least mistaken this policy. Indeed, there are, I believe, reasons that effectually obviate any mistake in policy. Is the general outline I have given sufficient?

On Mr. Haseba's again rising and expressing his hope that the minister president would remain firm in his determination that nothing can triumph over reason, Count Ito replied:

I have already replied to the interrogation arising out of the Korean question. Being in a position of responsibility for the present great affair, I can not offer any



undertaking for the future. That must depend upon the august will of His Gracious Majesty, as will be clear to you if you consider the facts. Again, there was a slight misapprehension in Mr. Haseba's speech just now. With regard to the maintenance by Japan of Korean independence and sympathy with her isolation and weakness, and the determination to assist her to the last in her efforts to assume a sovereign position, I did not say that no one would interfere, neither did I declare that no one would object. I said that I believed everyone would agree. Again, what has happened up to to-day since the outbreak of affairs last year? In regard to diplomatic matters, such as the relations between different powers—for instance, between Japan, and Korea, other powers and Korea, Japan and China, or other powers and China—these things constitute, in my opinion, quite a different question. But I make this one statement: I am here to-day as a representative of His Gracious Majesty's Government, and am charged with important affairs affecting the well-being of this Empire of Japan. Therefore I must be careful not only not to utter a single irresponsible word, but I must also not violate what should be inviolable. That much I must state to the house. [Cheers.]

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*Mr. Denby to Mr. Gresham.*

[Telegram.]

No. 105.]

PEKING, *March 2, 1895.*

Japan agrees to receive Li. Changes are to be made in letters patent. Place of meeting, Shimonoseki. Time not fixed. Plenipotentiary may use cipher.

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*Mr. Denby to Mr. Gresham.*

[Telegram.]

No. 107.]

PEKING, *March 15, 1895.*

Li Hung-chang left Taku for Shimonoseki this morning. Foster, Pethick accompanied him. He will reach Shimonoseki 18th. Sails under German flag, two steamers. He takes 133 people. Wants to live on steamers at Shimonoseki.

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*Mr. Dun to Mr. Gresham.*

[Telegram.]

No. 108.]

LEGATION OF THE UNITED STATES,

*Tokyo, March 25, 1895.*

Yesterday Li Hung-chang was shot and seriously wounded in face by Japanese fanatic at Shimonoseki. Negotiations must be suspended.

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*Mr. Dun to Mr. Gresham.*

[Telegram.]

No. 109.]

LEGATION OF THE UNITED STATES,

*Tokyo, March 28, 1895.*

Li Hung Chang's speedy recovery anticipated. Early resumption of negotiations probable.

## ENFORCEMENT OF REGULATIONS RESPECTING FUR SEALS.<sup>1</sup>

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*Mr. Gresham to Mr. Bayard.*

[Telegram.]

WASHINGTON, September 12, 1893.

The two powers should, without delay, come to an understanding which will make the regulations found to be necessary by the Paris Tribunal of Arbitration practically effective before the next sealing season. Concurrent legislation and supplemental regulations seem indispensable. You are instructed to inform the British minister that the United States desire to take the matter up at once with the ambassador here, or in some other way satisfactory to both Governments. Efforts to obtain adhesion of other powers to the regulations should be promptly made. The arbitrators recommend that no fur seal be killed on land or sea for one, two, or three years. If this suggestion is adopted the concurrence of Russia should be had, if possible.

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*Mr. Bayard to Mr. Gresham.*

EMBASSY OF THE UNITED STATES,  
London, September 13, 1893. (Received September 21.)

SIR: I avail myself of the mail pouch, which closes to-day, to send you two pamphlets on the Bering Sea question and the award thereon of the tribunal at Paris.

I have written to the secretary of state for foreign affairs asking an interview, in order to lay before him the purport of your instruction in relation to proceeding, without delay, to agree upon the regulations in fur sealing, made necessary to effectuate the award of the arbitrators.

I shall communicate to you as soon as possible the result of the interview with Lord Rosebery on the subject.

I have, etc.,

T. F. BAYARD.

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*Mr. Bayard to Mr. Gresham.*

EMBASSY OF THE UNITED STATES,  
London, September 13, 1893. (Received September 21.)

SIR: Referring to my previous dispatch of this date, I have now the honor to inform you that I have just had an interview with Her Majesty's secretary of state for foreign affairs in which I acquainted

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<sup>1</sup> Printed also in Senate Ex. Doc. No. 67, Fifty-third Congress, third session.

him with the purport of your instruction of to-day by cable in relation to the expediency of the two Governments coming at once to an understanding under which the award of the Paris Tribunal of Arbitration upon the Bering Sea questions would be rendered practically effective before the next sealing season.

His Lordship expressed his willingness to act promptly, and also the opinion that the arrangements for that purpose would be wisely made at Washington, and that the British ambassador, Sir Julian Pauncefote, would be eminently qualified to conduct them in behalf of his Government. But Lord Rosebery told me that he was awaiting a note upon the subject of the award from Sir Charles Tupper, high commissioner for Canada, who has just gone hence to Canada, and was, therefore, not prepared to discuss the matter further until he had heard from him.

I suggested the expediency of the two Governments acting promptly, in which his Lordship expressed his full concurrence, and said he would telegraph Sir Charles Tupper this afternoon and acquaint me with the nature of his reply as soon as it was received.

His Lordship concurred also in my suggestion that it would be highly expedient that no intimation of delay or obstruction should be attributable to Canada, and said in substance that there could be none.

I had a long interview with Sir Charles Tupper on the 12th of August on the general subject of Canadian relations with the United States, which I propose to make the subject of a separate dispatch, in which he expressed the strongest desire to strengthen amicable relations between the United States and Canada; so that I apprehend a ready and willing cooperation in the arrangements suggested by your cable instruction looking to the effective execution of the award of the Paris Tribunal.

I have, etc.,

T. F. BAYARD.

*Mr. Gresham to Mr. Bayard.*

DEPARTMENT OF STATE,  
Washington, September 13, 1893.

SIR: Any benefit that this Government derives from the action of the Paris Tribunal of Arbitration will depend upon the regulations and the willingness of Great Britain to cooperate with us in making them practically effective. Concurrent legislation should be obtained and supplemental rules or orders agreed upon and published before the next sealing season begins. Owners of sealing vessels should know in advance the restriction under which they will have to act.

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I fear that whatever is done Canadians, and perhaps Americans, will transfer the ownership of their sealing vessels to citizens or subjects of other powers, thus avoiding the effect of the regulations. It remains to be seen whether other powers will now give their adhesion to the regulations. It would seem that the situation calls for both legislation and another treaty, and perhaps you had better sound Lord Rosebery on that point; also, as to how other powers are to be approached for their adhesion to the regulations.

\* \* \* \* \*

I am, etc.,

W. Q. GRESHAM.



*Mr. Gresham to Mr. Bayard.*

[Telegram.]

WASHINGTON, *September 16, 1893.*

Your familiarity with the Bering Sea controversy, the treaty and award, suggests the propriety of intrusting to you the effort to obtain from Great Britain an agreement for the adoption of appropriate means for carrying into effect the regulations, and the President directs me to instruct you to exert yourself in that behalf. It is earnestly hoped that the British Government realizes the importance of prompt action and that it will speedily come to an understanding upon the subject of concurrent legislation, supplemental regulations, and joint effort for obtaining adhesion of other nations.

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*Mr. Gresham to Mr. Bayard.*

DEPARTMENT OF STATE,

*Washington, September 19, 1893.*

SIR: Referring to my telegram of the 16th instant instructing you in regard to the framing of regulations and legislation on the part of the United States and Great Britain to govern sealing in Bering Sea, I send you for your further information copies of the final decision of the Tribunal of Arbitration with the recommendations made by the tribunal to the two Governments.

I am, etc.,

W. Q. GRESHAM.

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[Inclosure 1.]

[English version.]

*Award of the Tribunal of Arbitration constituted under the treaty concluded at Washington, the 29th of February, 1892, between the United States of America and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland.*

Whereas by a treaty between the United States of America and Great Britain, signed at Washington, February 29, 1892, the ratifications of which by the Governments of the two countries were exchanged at London on May 7, 1892, it was, amongst other things, agreed and concluded that the questions which had arisen between the Government of the United States of America and the Government of Her Britannic Majesty, concerning the jurisdictional rights of the United States in the waters of Bering Sea, and concerning also the preservation of the fur seal in or habitually resorting to the said sea, and the rights of the citizens and subjects of either country as regards the taking of fur seals in or habitually resorting to the said waters, should be submitted to a Tribunal of Arbitration to be composed of seven arbitrators, who should be appointed in the following manner, that is to say: two should be named by the President of the United States; two should be named by Her Britannic Majesty; His Excellency the President of the French Republic should be jointly requested by the high contracting parties to name one; His Majesty the King of Italy should be so requested to name one; His Majesty the King of Sweden and Norway should be so requested to name one; the seven arbitrators to be so named should be jurists of distinguished reputation in their respective countries, and the selecting powers should be requested to choose, if possible, jurists who are acquainted with the English language;

And whereas it was further agreed by Article II of the said treaty that the arbitrators should meet at Paris within twenty days after the

delivery of the counter cases mentioned in Article IV, and should proceed impartially and carefully to examine and decide the questions which had been or should be laid before them as in the said treaty provided on the part of the Governments of the United States and of Her Britannic Majesty respectively, and that all questions considered by the tribunal, including the final decision, should be determined by a majority of all the arbitrators;

And whereas by Article VI of the said treaty, it was further provided as follows:

In deciding the matters submitted to the said arbitrators, it is agreed that the following five points shall be submitted to them in order that their award shall embrace a distinct decision upon each of said five points, to wit:

1. What exclusive jurisdiction in the sea now known as the Bering Sea, and what exclusive rights in the seal fisheries therein, did Russia assert and exercise prior and up to the time of the cession of Alaska to the United States?

2. How far were these claims of jurisdiction as to the seal fisheries recognized and conceded by Great Britain?

3. Was the body of water now known as the Bering Sea included in the phrase, Pacific Ocean, as used in the treaty of 1825 between Great Britain and Russia; and what rights, if any, in the Bering Sea were held and exclusively exercised by Russia after said treaty?

4. Did not all the rights of Russia as to jurisdiction and as to the seal fisheries in Bering Sea east of the water boundary, in the treaty between the United States and Russia, of the 30th of March, 1867, pass unimpaired to the United States under that treaty?

5. Has the United States any right, and if so, what right of protection or property in the fur seals frequenting the islands of the United States in Bering Sea when such seals are found outside the ordinary three-mile limit?

And whereas, by Article VII of the said treaty, it was further agreed as follows:

If the determination of the foregoing questions as to the exclusive jurisdiction of the United States shall leave the subject in such position that the concurrence of Great Britain is necessary to the establishment of regulations for the proper protection and preservation of the fur seal in or habitually resorting to the Bering Sea, the arbitrators shall then determine what concurrent regulations, outside the jurisdictional limits of the respective Governments, are necessary, and over what waters such regulations should extend;

The high contracting parties furthermore agree to cooperate in securing the adhesion of other powers to such regulations;

And whereas, by Article VIII of the said treaty, after reciting that the high contracting parties had found themselves unable to agree upon a reference which should include the question of the liability of each for the injuries alleged to have been sustained by the other, or by its citizens, in connection with the claims presented and urged by it, and that "they were solicitous that this subordinate question should not interrupt or longer delay the submission and determination of the main questions," the high contracting parties agreed that "either of them might submit to the arbitrators any question of fact involved in said claims and ask for a finding thereon, the question of the liability of either Government upon the facts found to be the subject of further negotiation;"

And whereas the President of the United States of America named the Hon. John M. Harlan, justice of the Supreme Court of the United States, and the Hon. John T. Morgan, Senator of the United States, to be two of the said arbitrators, and Her Britannic Majesty named the Right Hon. Lord Hannen and the Hon. Sir John Thompson, minister of justice and attorney-general for Canada, to be two of the said arbitrators, and His Excellency, the President of the French Republic, named the Baron de Courcel, senator, ambassador of France, to be one of the said arbitrators, and His Majesty, the King of Italy, named the



Marquis Emilio Visconti Venosta, former minister of foreign affairs and senator of the Kingdom of Italy, to be one of the said arbitrators, and His Majesty, the King of Sweden and Norway, named Mr. Gregers Gram, minister of state, to be one of the said arbitrators;

And whereas we, the said arbitrators, so named and appointed, having taken upon ourselves the burden of the said arbitration, and having duly met at Paris, proceeded impartially and carefully to examine and decide all the questions submitted to us, the said arbitrators under the said treaty, or laid before us as provided in the said treaty on the part of the Governments of Her Britannic Majesty and the United States, respectively;

Now we, the said arbitrators, having impartially and carefully examined the said questions, do in like manner by this our award decide and determine the said questions in manner following, that is to say, we decide and determine as to the five points mentioned in Article VI as to which our award is to embrace a distinct decision upon each of them:

As to the first of the said five points, we, the said Baron de Courcel, Mr. Justice Harlan, Lord Hannen, Sir John Thompson, Marquis Visconti Venosta, and Mr. Gregers Gram, being a majority of the said arbitrators, do decide and determine as follows:

By the ukase of 1821, Russia claimed jurisdiction in the sea now known as the Bering's Sea, to the extent of 100 Italian miles from the coasts and islands belonging to her, but, in the course of the negotiations which led to the conclusion of the treaties of 1824 with the United States and of 1825 with Great Britain, Russia admitted that her jurisdiction in the said sea should be restricted to the reach of cannon shot from shore, and it appears that, from that time up to the time of the cession of Alaska to the United States, Russia never asserted in fact or exercised any exclusive jurisdiction in Bering's Sea or any exclusive rights in the seal fisheries therein beyond the ordinary limit of territorial waters.

As to the second of the said five points, we, the said Baron de Courcel, Mr. Justice Harlan, Lord Hannen, Sir John Thompson, Marquis Visconti Venosta, and Mr. Gregers Gram, being a majority of the said arbitrators, do decide and determine that Great Britain did not recognize or concede any claim upon the part of Russia to exclusive jurisdiction as to the seal fisheries in Bering Sea outside of ordinary territorial waters.

As to the third of the said five points, as to so much thereof as requires us to decide whether the body of water now known as the Bering Sea was included in the phrase "Pacific Ocean" as used in the treaty of 1825 between Great Britain and Russia, we, the said arbitrators, do unanimously decide and determine that the body of water now known as the Bering Sea was included in the phrase "Pacific Ocean," as used in the said treaty.

And as to so much of the said third point as requires us to decide what rights, if any, in the Bering Sea were held and exclusively exercised by Russia after the said treaty of 1825, we, the said Baron de Courcel, Mr. Justice Harlan, Lord Hannen, Sir John Thompson, Marquis Visconti Venosta, and Mr. Gregers Gram, being a majority of the said arbitrators, do decide and determine that no exclusive rights of jurisdiction in Bering Sea and no exclusive rights as to the seal fisheries therein were held or exercised by Russia outside of ordinary territorial waters after the treaty of 1825.

As to the fourth of the said five points, we, the said arbitrators, do unanimously decide and determine that all the rights of Russia as to



jurisdiction and as to the seal fisheries in Bering Sea east of the water boundary, in the treaty between the United States and Russia of the 30th March, 1867, did pass unimpaired to the United States under the said treaty.

As to the fifth of the said five points, we, the said Baron de Courcel, Lord Hannen, Sir John Thompson, Marquis Visconti Venosta and Mr. Gregers Gram, being a majority of the said arbitrators, do decide and determine that the United States has not any right of protection or property in the fur seals frequenting the islands of the United States in Bering Sea, when such seals are found outside the ordinary three-mile limit.

And whereas the aforesaid determination of the foregoing questions as to the exclusive jurisdiction of the United States mentioned in Article VI leaves the subject in such a position that the concurrence of Great Britain is necessary to the establishment of regulations for the proper protection and preservation of the fur seal in or habitually resorting to the Bering Sea, the tribunal having decided by a majority as to each article of the following regulations, we, the said Baron de Courcel, Lord Hannen, Marquis Visconti Venosta, and Mr. Gregers Gram, assenting to the whole of the nine articles of the following regulations, and being a majority of the said arbitrators, do decide and determine in the mode provided by the treaty, that the following concurrent regulations outside the jurisdictional limits of the respective Governments are necessary and that they should extend over the waters hereinafter mentioned, that is to say:

#### ARTICLE 1.

The Governments of the United States and of Great Britain shall forbid their citizens and subjects, respectively, to kill, capture, or pursue at any time and in any manner whatever, the animals commonly called fur seals, within a zone of sixty miles around the Pribilov Islands, inclusive of the territorial waters.

The miles mentioned in the preceding paragraph are geographical miles of sixty to a degree of latitude.

#### ARTICLE 2.

The two Governments shall forbid their citizens and subjects, respectively, to kill, capture, or pursue, in any manner whatever, during the season extending, each year, from the 1st of May to the 31st of July, both inclusive, the fur seals on the high sea, in the part of the Pacific Ocean, inclusive of the Behring Sea, which is situated to the north of the 35th degree of north latitude, and eastward of the 180th degree of longitude from Greenwich till it strikes the water boundary described in article 1 of the treaty of 1867 between the United States and Russia, and following that line up to Behring Straits.

#### ARTICLE 3.

During the period of time and in the waters in which the fur-seal fishing is allowed, only sailing vessels shall be permitted to carry on or take part in fur-seal fishing operations. They will, however, be at liberty to avail themselves of the use of such canoes or undecked boats, propelled by paddles, oars, or sails, as are in common use as fishing boats.

## ARTICLE 4.

Each sailing vessel authorised to fish for fur seals must be provided with a special license issued for that purpose by its Government and shall be required to carry a distinguishing flag, to be prescribed by its Government.

## ARTICLE 5.

The masters of the vessels engaged in fur-seal fishing shall enter accurately in their official log book the date and place of each fur-seal fishing operation, and also the number and sex of the seals captured upon each day. These entries shall be communicated by each of the two Governments to the other at the end of each fishing season.

## ARTICLE 6.

The use of nets, fire arms and explosives shall be forbidden in the fur-seal fishing. This restriction shall not apply to shotguns when such fishing takes place outside of Behring's Sea during the season when it may be lawfully carried on.

## ARTICLE 7.

The two Governments shall take measures to control the fitness of the men authorized to engage in fur-seal fishing; these men shall have been proved fit to handle with sufficient skill the weapons by means of which this fishing may be carried on.

## ARTICLE 8.

The regulations contained in the preceding articles shall not apply to Indians dwelling on the coasts of the territory of the United States or of Great Britain, and carrying on fur-seal fishing in canoes or undecked boats not transported by or used in connection with other vessels and propelled wholly by paddles, oars, or sails, and manned by not more than five persons each in the way hitherto practised by the Indians, provided such Indians are not in the employment of other persons, and provided that, when so hunting in canoes or undecked boats, they shall not hunt fur seals outside of territorial waters under contract for the delivery of the skins to any person.

This exemption shall not be construed to affect the municipal law of either country, nor shall it extend to the waters of Behring Sea or the waters of the Aleutian Passes.

Nothing herein contained is intended to interfere with the employment of Indians as hunters or otherwise in connection with fur-sealing vessels as heretofore.

## ARTICLE 9.

The concurrent regulations hereby determined with a view to the protection and preservation of the fur seals shall remain in force until they have been, in whole or in part, abolished or modified by common agreement between the Governments of the United States and of Great Britain.

The said concurrent regulations shall be submitted every five years to a new examination, so as to enable both interested Governments to consider whether, in the light of past experience, there is occasion for any modification thereof.

And whereas the Government of Her Britannic Majesty did submit to the Tribunal of Arbitration by Article VIII of the said treaty certain questions of fact involved in the claims referred to in the said Article VIII. and did also submit to us, the said tribunal, a statement of the said facts, as follows, that is to say:

FINDINGS OF FACT PROPOSED BY THE AGENT OF GREAT BRITAIN AND AGREED TO AS PROVED BY THE AGENT FOR THE UNITED STATES, AND SUBMITTED TO THE TRIBUNAL OF ARBITRATION FOR ITS CONSIDERATION.

1. That the several searches and seizures, whether of ships or goods, and the several arrests of masters and crews, respectively mentioned in the schedule to the British case, pages 1 to 60, inclusive, were made by the authority of the United States Government. The questions as to the value of the said vessels or their contents, or either of them, and the question as to whether the vessels mentioned in the schedule to the British case, or any of them, were wholly or in part the actual property of citizens of the United States, have been withdrawn from and have not been considered by the tribunal, it being understood that it is open to the United States to raise these questions or any of them, if they think fit, in any future negotiations as to the liability of the United States Government to pay the amounts mentioned in the schedule to the British case.

2. That the seizures aforesaid, with the exception of the *Pathfinder* seized at Neah-Bay, were made in Bering Sea at the distances from shore mentioned in the schedule annexed hereto, marked C.

3. That the said several searches and seizures of vessels were made by public armed vessels of the United States, the commanders of which had, at the several times when they were made, from the Executive Department of the Government of the United States, instructions, a copy of one of which is annexed hereto, marked A, and that the others were, in all substantial respects, the same; that in all the instances in which proceedings were had in the district courts of the United States resulting in condemnation, such proceedings were begun by the filing of libels, a copy of one of which is annexed hereto, marked B, and that the libels in the other proceedings were in all substantial respects the same; that the alleged acts or offenses for which said several searches and seizures were made were in each case done or committed in Bering Sea at the distances from shore aforesaid; and that in each case in which sentence of condemnation was passed, except in those cases when the vessels were released after condemnation, the seizure was adopted by the Government of the United States; and in those cases in which the vessels were released the seizure was made by the authority of the United States; that the said fines and imprisonments were for alleged breaches of the municipal laws of the United States, which alleged breaches were wholly committed in Bering Sea at the distances from the shore aforesaid.

4. That the several orders mentioned in the schedule annexed hereto and marked C, warning vessels to leave or not to enter Bering Sea were made by public armed vessels of the United States, the commanders of which had, at the several times when they were given, like instructions as mentioned in finding 3, and that the vessels so warned were engaged in sealing or prosecuting voyages for that purpose, and that such action was adopted by the Government of the United States.

5. That the district courts of the United States in which any proceedings were had or taken for the purpose of condemning any vessel seized as mentioned in the schedule to the case of Great Britain, pages 1 to 60, inclusive, had all the jurisdiction and powers of courts of admiralty, including the prize jurisdiction, but that in each case the sentence pronounced by the court was based upon the grounds set forth in the libel.

#### ANNEX A.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,

Washington, April 21, 1886.

SIR: Referring to Department letter of this date, directing you to proceed with the revenue steamer *Bear*, under your command, to the seal islands, etc., you are hereby clothed with full power to enforce the law contained in the provisions of section 1956 of the United States Revised Statutes, and directed to seize all vessels, and arrest and deliver to the proper authorities any or all persons whom you may detect violating the law referred to, after due notice shall have been given.



You will also seize any liquors or firearms attempted to be introduced into the country without proper permit, under the provisions of section 1955 of the Revised Statutes, and the proclamation of the President, dated 4th February, 1870.

Respectfully, yours,

C. S. FAIRCHILD, *Acting Secretary.*

Capt. M. A. HEALY,

*Commanding revenue steamer Bear, San Francisco, Cal.*

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#### ANNEX B.

In the district court of the United States for the district of Alaska—August special term, 1886.

Hon. LAFAYETTE DAWSON,  
*Judge of said District Court:*

The libel of information of M. D. Ball, attorney for the United States for the district of Alaska, who prosecutes on behalf of said United States, and being present here in court in his proper person, in the name and on behalf of the said United States, against the schooner *Thornton*, her tackle, apparel, boats, cargo, and furniture, and against all persons intervening for their interest therein, in a cause of forfeiture, alleges and informs as follows:

That Charles A. Abbey, an officer in the Revenue-Marine Service of the United States, and on special duty in the waters of the district of Alaska, heretofore, to wit, on the 1st day of August, 1886, within the limits of Alaska Territory, and in the waters thereof, and within the civil and judicial district of Alaska, to wit, within the waters of that portion of Bering Sea belonging to the said district, on waters navigable from the sea by vessels of 10 or more tons burden, seized the ship or vessel commonly called a schooner, the *Thornton*, her tackle, apparel, boats, cargo, and furniture, being the property of some person or persons to the said attorney unknown, as forfeited to the United States, for the following causes:

That the said vessel or schooner was found engaged in killing fur seal within the limits of Alaska Territory, and in the waters thereof, in violation of section 1956 of the Revised Statutes of the United States.

And the said attorney saith that all and singular the premises are and were true, and within the admiralty and maritime jurisdiction of this court, and that by reason thereof, and by force of the Statutes of the United States in such cases made and provided, the afore-mentioned and described schooner or vessel, being a vessel of over 20 tons burden, her tackle, apparel, boats, cargo, and furniture, became and are forfeited to the use of the said United States, and that said schooner is now within the district aforesaid.

Wherefore the said attorney prays the usual process and monition of this honorable court issue in this behalf, and that all persons interested in the before-mentioned and described schooner or vessel may be cited in general and special to answer the premises, and all due proceedings being had, that the said schooner or vessel, her tackle, apparel, boats, cargo, and furniture may, for the cause aforesaid, and others appearing, be condemned by the definite sentence and decree of this honorable court, as forfeited to the use of the said United States, according to the form of the statute of the said United States in such cases made and provided.

M. D. BALL,  
*United States District Attorney for the District of Alaska.*

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#### ANNEX C.

The following table shows the names of the British sealing vessels seized or warned by United States revenue cruisers, 1886-1890, and the approximate distance from land when seized. The distances assigned in the cases of the *Carolina*, *Thornton*, and *Onward* are on the authority of United States Naval Commander Abbey. (See Fiftieth Congress, second session, Senate Ex. Doc. No. 106, pp. 20, 30, 40.) The distances assigned in the cases of the *Anna Beck*, *W. P. Sayward*, *Dolphin* and *Grace* are on the authority of Captain Shepard, U. S. R. M. (Blue Book, United States, No. 2, 1890, pp. 80-82. See Appendix, Vol. III.)

Name of vessel.	Date of seizure.	Approximate distance from land when seized.	United States vessel making seizure.
Carolena.....	Aug. 1, 1886	75 miles .....	Corwin.
Thornton.....	.....do.....	70 miles .....	Corwin.
Onward.....	Aug. 2, 1886	115 miles .....	Corwin.
Favourite.....	.....do.....	Warned by Corwin in about same position as Onward.	
Anna Beck.....	July 2, 1887	66 miles .....	Rush.
W. P. Sayward.....	July 9, 1887	59 miles .....	Rush.
Dolphin.....	July 12, 1887	40 miles .....	Rush.
Grace.....	July 17, 1887	96 miles .....	Rush.
Alfred Adams.....	Aug. 10, 1887	62 miles .....	Rush.
Ada.....	Aug. 25, 1887	15 miles .....	Bear.
Triumph.....	Aug. 4, 1887	Warned by Rush not to enter Bering Sea.	
Juanita.....	July 31, 1889	66 miles .....	Rush.
Pathfinder.....	July 29, 1889	50 miles .....	Rush.
Triumph.....	July 11, 1889	Ordered out of Bering Sea by Rush. (?) As to position when warned.	
Black Diamond.....	.....do.....	35 miles .....	Rush.
Lily.....	Aug. 6, 1889	66 miles .....	Rush.
Ariel.....	July 30, 1889	Ordered out of Bering Sea by Rush.	
Kate.....	Aug. 13, 1889	.....do.....	
Minnie.....	July 15, 1889	65 miles .....	Rush.
Pathfinder.....	Mar. 27, 1890	Seized in Neah Bay <sup>1</sup> .	Corwin.

<sup>1</sup> Neah Bay is in the State of Washington, and the *Pathfinder* was seized there on charges made against her in the Bering Sea in the previous year. She was released two days later.

And whereas the Government of Her Britannic Majesty did ask the said arbitrators to find the said facts as set forth in the said statement, and whereas the agent and counsel for the United States Government thereupon in our presence informed us that the said statement of facts was sustained by the evidence, and that they had agreed with the agent and counsel for Her Britannic Majesty that we, the arbitrators, if we should think fit so to do, might find the said statement of facts to be true.

Now, we, the said arbitrators, do unanimously find the facts as set forth in the said statement to be true.

And whereas each and every question which has been considered by the tribunal has been determined by a majority of all the arbitrators;

Now, we, Baron de Courcel, Lord Hannen, Mr. Justice Harlan, Sir John Thompson, Senator Morgan, the Marquis Visconti Venosta, and Mr. Gregers Gram, the respective minorities not withdrawing their votes, do declare this to be the final decision and award in writing of this tribunal in accordance with the treaty.

Made in duplicate at Paris and signed by us the 15th day of August in the year 1893.

And we do certify this English version thereof to be true and accurate.

ALPH. DE COURCEL.  
JOHN M. HARLAN.  
JOHN T. MORGAN.  
HANNEN.  
JNO. S. D. THOMPSON.  
VISCONTI VENOSTA.  
G. GRAM.

[Inclosure 2.]

[English version.]

*Declarations made by the Tribunal of Arbitration and referred to the Governments of the United States and Great Britain for their consideration.*

## I.

The arbitrators declare that the concurrent regulations, as determined upon by the Tribunal of Arbitration, by virtue of Article VII of the treaty of the 29th of February, 1892, being applicable to the high sea only, should, in their opinion, be supplemented by other regulations applicable within the limits of the sovereignty of each of the two Powers interested and to be settled by their common agreement.

## II.

In view of the critical condition to which it appears certain that the race of fur seals is now reduced in consequence of circumstances not fully known, the arbitrators think fit to recommend both Governments to come to an understanding in order to prohibit any killing of fur seals, either on land or at sea, for a period of two or three years, or at least one year, subject to such exceptions as the two Governments might think proper to admit of.

Such a measure might be recurred to at occasional intervals if found beneficial.

## III.

The arbitrators declare, moreover, that, in their opinion, the carrying out of the regulations determined upon by the Tribunal of Arbitration, should be assured by a system of stipulations and measures to be enacted by the two Powers; and that the tribunal must, in consequence, leave it to the two Powers to decide upon the means for giving effect to the regulations determined upon by it.

We do certify this English version to be true and accurate and have signed the same at Paris this 15th day of August, 1893.

ALPH DE COURCEL.  
JOHN M. HARLAN.

I approve Declarations I and III.

HANNEN.

I approve Declarations I and III.

JNO. S. D. THOMPSON.  
JOHN T. MORGAN.  
VISCONTI VENOSTA.  
G. GRAM.

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*Mr. Bayard to Mr. Gresham.*

EMBASSY OF THE UNITED STATES,  
*London, September 19, 1893. (Received September 30.)*

SIR: \* \* \* I have to-day received a note from the foreign office informing me that a letter has just been received at the colonial office from Sir Charles Tupper, in Canada, stating that he and the prime



minister had been engrossed by arrears of business since their return, but that he was preparing a memorandum on the award in the Bering Sea Arbitration; and I am further informed that Lord Ripon has already telegraphed to Canada to expedite the memorandum in question and its receipt at the colonial office here.

I have every confidence that an effective execution of the award will be agreed upon in as short a time as the complexity and magnitude of the subject, and the somewhat undefined nature of the regulations and recommendations of the Tribunal of Arbitration, will admit.

I have, etc.,

T. F. BAYARD.

*Mr. Bayard to Mr. Gresham.*

[Telegram.]

LONDON, *September 20, 1893.*

Your instructions by cable duly followed. In an interview to-day secretary of state for foreign affairs fully responds to President's wishes for prompt action in executing Bering Sea award.

*Mr. Bayard to Mr. Gresham.*

EMBASSY OF THE UNITED STATES,  
*London, September 20, 1893. (Received September 30.)*

SIR: I have the honor to acknowledge the receipt of your telegram of the 16th instant, with reference to the negotiation here of a convention to carry out the recommendations accompanying the award in the Bering Sea Arbitration.

Lord Rosebery's absence from town until to-day prevented my seeing him until 4 p. m. I made known to him the purport of your last instruction by cable, and pressed upon him the importance of prompt and active cooperation by the United States and Great Britain to give effective and executive force to the Paris award. He instantly expressed his desire to do so, and said he had no doubt whatever of a similar intent and feeling on the part of Canada.

While expressing this ready concurrence, he pressed me to convey his desire that, as the facts to be dealt with were all in America, Sir Julian Pauncefote, from his full knowledge of the whole business, should be employed on behalf of Great Britain in carrying out the decisions and recommendations of the tribunal.

There is not time before this mail leaves for me to state with more fullness his remarks, which, however, I will do by the next mail; and have just telegraphed you to acknowledge your telegram and state the interview directed by it had been held.

I have, etc.,

T. F. BAYARD.

*Mr. Bayard to Mr. Gresham.*

EMBASSY OF THE UNITED STATES,  
*London, September 30, 1893. (Received October 9.)*

SIR: I have now the honor to acknowledge your letter of the 13th instant, stating the present condition of affairs arising out of the results of the Paris Arbitration in relation to our interests in Bering Sea and the fur-seal fisheries therein. And, as connected with the same subject, I have also the honor to acknowledge your letter of the 19th instant, inclosing copies of the final award and decision of the same tribunal.

The contents of both these communications have received the careful consideration which their importance demands.

My dispatches of September 19 and of September 30 can both be properly referred to in this communication as bearing upon the relations of the United States with the Dominion of Canada, in which the interests are conducted under the name (*nominis umbra*) of Great Britain, and which in a large degree, but not wholly, include the business of fur sealing, and although the capture of the fur seal (in the high seas) is chiefly carried on by Canadians, yet the dressing of the skins is almost entirely a London industry, and it is said that some ten thousand people are here engaged therein.

Lord Rosebery left London to be in attendance upon the Queen at Balmoral on the day I last had an interview with him, as reported to you, and is expected to return to London next week.

I shall without delay seek another interview with Lord Rosebery upon his return to London, and endeavor to come to a distinct understanding on the subject under consideration, in order to proceed promptly to carry into practical effect the award and the recommendations with which it is accompanied.

To suspend wholly, even for a single year, the seal catch on the islands might be highly prejudicial to the United States, or their lessees, and as in the provisional or temporary arrangement of May, 1893, between Russia and Great Britain, a limit of 30,000 seals on the Russian islands was agreed to, it would seem a very reasonable figure to adopt for the catch on the Pribilof islands, whose product has been supposed to be about double that of the Russian islands.

I would respectfully ask for an expression of your views on this subject and how far we ought to go in restricting the seal catch on these islands. The mail closes in an hour and I will withhold other comments until I may have had some communication from the foreign office, and received some intimation of the Canadian views.

I have, etc.,

T. F. BAYARD.

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*Mr. Gresham to Mr. Bayard.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, October 3, 1893.*

Yours of September 20 received. Lord Rosebery's suggestion has been carefully considered, and the President still prefers that all negotiations for concurrent action by the two Governments necessary to

make the award and recommendations of the Bering Sea Tribunal effective be conducted by you at London, and my instructions cabled September 16 are repeated.

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*Mr. Gresham to Mr. Bayard.*

DEPARTMENT OF STATE,  
Washington, October 6, 1893.

SIR: Referring to my telegrams to you of the 16th ultimo and the 3d instant, relative to negotiations for carrying into effect the regulations proposed by the Bering Sea Arbitration Tribunal, I inclose, as of probable use to you in conducting the business, a copy of a letter,<sup>1</sup> dated the 4th ultimo, from the Hon. E. J. Phelps, commenting on the award made by the arbitrators; also a copy of suggestions<sup>2</sup> by Mr. James C. Carter on certain branches of the subject.

I am, etc.,

W. Q. GRESHAM.

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*Sir Julian Pauncefote to Mr. Gresham.*

NEWPORT, October 11, 1893.

SIR: I have the honor to inform you that I have received a dispatch from the Earl of Rosebery recording a conversation with his excellency the United States ambassador in London respecting the negotiations for carrying out the Bering Sea award, in which his Lordship expressed himself as being most anxious that those negotiations should take place at Washington through me, as I have been conversant with the matter from the beginning. Mr. Bayard has probably reported that conversation to you, and I should be gratified to learn that the wishes expressed by Lord Rosebery to his excellency respecting the negotiation in question are agreeable to your Government.

I have, etc.,

JULIAN PAUNCEFOTE.

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*Mr. Gresham to Mr. Bayard.*

DEPARTMENT OF STATE,  
Washington, October 18, 1893.

SIR: I have to acknowledge receipt of your dispatch of the 30th of September, in reply to letters I addressed to you on the 13th and 19th of the same month, in which you say that on Lord Rosebery's return to London you will continue your effort to obtain adequate action on the award of the Paris Tribunal.

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<sup>1</sup> See Senate Ex. Doc. No. 67, Fifty-third Congress, third session, page 23.

<sup>2</sup> The same document, page 26.



I have had an interview with the President and the Secretary of the Treasury on that part of your letter in which you state:

"To suspend wholly, even for a single year, the seal catch on the islands might be highly prejudicial to the United States or their lessees, and as in the provisional or temporary arrangement of May, 1893, between Russia and Great Britain, a limit of 30,000 seals on the Russian islands was agreed to, it would seem a very reasonable figure to adopt for the catch on the Pribilof Islands, whose product has been supposed to be about double that of the Russian islands. I would respectfully ask for an expression of your views on this subject, and how far we ought to go in restricting the seal catch on these islands."

After again consulting with the President and Secretary Carlisle upon this subject to-morrow the desired instructions will be sent to you.

I inclose herewith, for your information, copy of a note which I sent to the British ambassador at Newport on the 13th instant, informing him that the President would adhere to his purpose of having you conduct the negotiations at London for concurrent action to make the award and recommendations of the Paris Tribunal effective.

I am, etc.,

W. Q. GRESHAM.

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*Mr. Gresham to Mr. Bayard.*

DEPARTMENT OF STATE,  
*Washington, October 24, 1893.*

SIR: In a recent conversation with the Japanese minister I brought to his attention the regulations recommended by the Paris Tribunal of Arbitration, and inquired whether his Government was willing to take advantage of the opportunity afforded it to give its adhesion to them.

The minister said that Japan, having extensive coasts and islands facing the sealing areas, had an interest in the preservation of seal life, and that his Government would gladly come to an understanding with the United States, Great Britain, and Russia for protecting the seal in the Pacific Ocean north of the thirty-fifth degree of north latitude, between California and Japan.

Mr. Tateno expressed the opinion that his Government could not fairly be expected to give its adhesion to the regulations recommended by the arbitrators, and thus prohibit Japanese subjects from taking seal during the months of May, June, and July of each year "in the part of the Pacific Ocean, inclusive of the Bering Sea, which is situated to the north of the thirty-fifth degree of north latitude and eastward of the one hundred and eightieth degree of longitude from Greenwich, till it strikes the water boundary described in article 1 of the treaty of 1867 between the United States and Russia, and following that line up to Bering Straits," while citizens of the United States and subjects of Great Britain, as well as subjects of all the other powers, are permitted to engage in pelagic sealing between these protected waters and Japan.

A glance at any map on an enlarged scale will enable you to more fully understand the minister's position. He expects shortly to receive precise instructions on this point, looking to an international agreement

between the four powers for the preservation, for their common benefit, of fur seals between the two continents and north of the thirty-fifth degree of north latitude.

At the conclusion of an interview with the British ambassador on another subject, I informed him what the Japanese minister had said when asked if his Government would give its adhesion to the regulations recommended by the Tribunal of Arbitration. Sir Julian said he recognized the force of the Japanese position, and that the situation seemed to suggest the propriety of such a treaty between the four powers.

In view of the geographical position of Japan, and her interests in the fur-sealing industry, it is not surprising that that Government should assume this position. If the four chiefly interested powers should come to an understanding of the nature indicated, other commercial nations for obvious reasons would likely respect it.<sup>1</sup>

I send you for your information copy of a letter addressed to me, under date of October 10, 1893, by Mr. J. Stanley Brown, on the subject of fur sealing and the regulations recommended by the tribunal for the protection of the seal herd. Should you desire the presence of experts to aid you in your negotiations they will be sent to London.

I am, etc.,

W. Q. GRESHAM.

*Mr. Gresham to Mr. Bayard.*

DEPARTMENT OF STATE,

Washington, October 26, 1893.

SIR: I inclose for your information a copy of the contract between the United States and the North American Commercial Company, which enjoys the exclusive right of taking fur seals upon the Pribilof Islands; also extracts from the instructions, dated May 2, 1892, and April 22, 1893, sent to the special agent in charge of the islands in relation to the number of seals to be taken under the *modus vivendi* between the United States and Great Britain.

I am, etc.,

W. Q. GRESHAM.

[Inclosure 1.]

*Copy of contract between the United States and the North American Commercial Company, under which said company is granted the exclusive right of taking fur seals upon the Pribilof Islands in Alaska.*

This indenture, made in duplicate this twelfth day of March, 1890, by and between William Windom, Secretary of the Treasury of the United States, in pursuance of chapter 3 of title 23, Revised Statutes, and the North American Commercial Company, a corporation duly established under the laws of the State of California, and acting by

<sup>1</sup> Senate Ex. Doc. No. 67, Fifty-third Congress, third session, page 32.

I. Liebes, its president, in accordance with a resolution of said corporation adopted at a meeting of its board of directors held January 4, 1890:

Witnesseth: That the said Secretary of the Treasury, in consideration of the agreements hereinafter stated, hereby leases to the said North American Commercial Company for a term of twenty years, from the first day of May, 1890, the exclusive right to engage in the business of taking fur seals on the Islands of St. George and St. Paul in the Territory of Alaska, and to send a vessel or vessels to said islands for the skins of such seals.

The said North American Commercial Company, in consideration of the rights secured to it under this lease above stated, on its part covenants and agrees to do the things following, that is to say:

To pay to the Treasurer of the United States each year during the said term of twenty years, as annual rental, the sum of sixty thousand dollars, and in addition thereto agrees to pay the revenue tax, or duty, of two dollars laid upon each fur-seal skin taken and shipped by it from said Islands of St. George and St. Paul, and also to pay to said Treasurer the further sum of seven dollars sixty-two and one-half cents apiece for each and every fur-seal skin taken and shipped from said islands, and also to pay the sum of fifty cents per gallon for each gallon of oil sold by it made from seals that may be taken on said islands during the said period of twenty years, and to secure the prompt payment of the sixty thousand dollars rental above referred to, the said company agrees to deposit with the Secretary of the Treasury bonds of the United States to the amount of fifty thousand dollars, face value, to be held as a guarantee for the annual payment of said sixty thousand dollars rental, the interest thereon when due to be collected and paid to the North American Commercial Company, provided the said company is not in default of payment of any part of the said sixty thousand dollars rental.

That it will furnish to the native inhabitants of said Islands of St. George and St. Paul annually such quantity or number of dried salmon, and such quantity of salt and such number of salt barrels for preserving their necessary supply of meat as the Secretary of the Treasury shall from time to time determine.

That it will also furnish to the said inhabitants eighty tons of coal annually, and a sufficient number of comfortable dwellings in which said native inhabitants may reside; and will keep said dwellings in proper repair; and will also provide and keep in repair such suitable schoolhouses as may be necessary, and will establish and maintain during eight months of each year proper schools for the education of the children on said islands; the same to be taught by competent teachers, who shall be paid by the company a fair compensation, all to the satisfaction of the Secretary of the Treasury; and will also provide and maintain a suitable house for religious worship; and will also provide a competent physician or physicians, and necessary and proper medicines and medical supplies; and will also provide the necessaries of life for the widows and orphans and aged and infirm inhabitants of said islands who are unable to provide for themselves; all of which foregoing agreements will be done and performed by the said company free of all costs and charges to said native inhabitants of said islands or to the United States.

The annual rental, together with all other payments to the United States, provided for in this lease, shall be made and paid on or before



the first day of April of each and every year during the existence of this lease, beginning with the first day of April, 1891.

The said company further agrees to employ the native inhabitants of said islands to perform such labor upon the islands as they are fitted to perform, and to pay therefor a fair and just compensation, such as may be fixed by the Secretary of the Treasury; and also agrees to contribute, as far as in its power, all reasonable efforts to secure the comfort, health, education, and promote the morals and civilization of said native inhabitants.

The said company also agrees faithfully to obey and abide by all rules and regulations that the Secretary of the Treasury has heretofore or may hereafter establish or make in pursuance of law concerning the taking of seals on said islands, and concerning the comfort, morals, and other interests of said inhabitants, and all matters pertaining to said islands and the taking of seals within the possession of the United States. It also agrees to obey and abide by any restrictions or limitations upon the right to kill seals that the Secretary of the Treasury shall judge necessary, under the law, for the preservation of the seal fisheries of the United States; and it agrees that it will not kill, or permit to be killed, so far as it can prevent, in any year a greater number of seals than is authorized by the Secretary of the Treasury.

The said company further agrees that it will not permit any of its agents to keep, sell, give, or dispose of any distilled spirits or spirituous liquors or opium on either of said islands or the waters adjacent thereto to any of the native inhabitants of said islands, such person not being a physician and furnishing the same for use as a medicine.

It is understood and agreed that the number of fur seals to be taken and killed for their skins upon said islands by the North American Commercial Company during the year ending May 1st, 1891, shall not exceed sixty thousand.

The Secretary of the Treasury reserves the right to terminate this lease and all rights of the North American Commercial Company under the same at any time on full and satisfactory proof that the said company has violated any of the provisions and agreements of this lease, or in any of the laws of the United States, or any Treasury regulation respecting the taking of fur seals or concerning the Islands of St. George and St. Paul or the inhabitants thereof.

In witness whereof, the parties hereto have set their hands and seals the day and year above written.

WILLIAM WINDOM,  
*Secretary of the Treasury.*

NORTH AMERICAN COMMERCIAL COMPANY.

By I. LIEBES,

*President of the North American Commercial Company.*

{ North American Commercial }  
  Company, incorporated  
  December, 1889.            {

Attest:

H. B. PARSONS, *Assistant Secretary.*

[Inclosure 2.]

*Treasury instructions to agents in charge of Seal Islands.*

TREASURY DEPARTMENT,  
OFFICE OF THE SECRETARY,  
Washington, D. C., May 2, 1892.

[Extract.]

SIR: As already advised by telegram, you will proceed at once to the Seal Islands as "Treasury agent in charge," taking passage for that purpose either on the U. S. revenue steamer *Bear*, which leaves Port Townsend on or about May 7, or the Alaska Commercial Company's steamer *Bertha*, which leaves San Francisco about the same date.

Upon your arrival at the islands you will assume charge of the interests and property of the Government, and as its representative you will see to it that the authority with which you are invested is respected in all quarters.

\* \* \* \* \*

*Modus vivendi.*—You will find inclosed a copy of the *modus vivendi* between the United States and Great Britain, which you will see goes into force May 1, 1892, and continues while the arbitration is pending, unless otherwise provided for after October 31, 1893.

*Foreign agents.*—You will observe that the *modus* (Art. IV) permits the landing on the islands of British agents. In accordance with the international agreement you will permit such duly accredited persons to land for the purposes indicated in the *modus*.

Your attention is called to the unfortunate representations made to Lord Salisbury last year by the British commissioners. Their statements concerning the alleged violation of the *modus* in the matter of seal killing were based upon their misinterpretation of the terms of the *modus* and their misunderstanding of the facts. Especial effort should be made, therefore, to present with exceeding clearness any fact that you may deem necessary or proper to communicate to any British official visiting either island. All affidavits obtained by such agents from the natives or other persons on the island must be taken in the presence of a Government officer, and the foreign agents must conform to such rules of conduct concerning the rookeries as are required of citizens of the United States.

*Seal quota.*—It is essential to the carrying out of the *modus* that all seals taken for their skins be killed under the direction of the Government agent. No quota has therefore been assigned the North American Commercial Company. As the limit to be killed for all purposes during the season of 1892 is fixed by international agreement at 7,500, you will so adjust the killing as to provide for a fresh-meat supply for the natives throughout the season. As under the terms of the lease all skins taken will ultimately be turned over to the North American Commercial Company, you will confer with the agent of the lessees as to the kind of skins desired, and request his cooperation in selecting them.

The number of seals to be killed on each island will be in about the proportion of former years, unless, in your judgment, there should be made some modification of the ratio.

*Killing season.*—The killing season will begin as soon after your arrival as in your judgment the rookeries are in proper condition for driving, and the period for taking seals is left entirely to your discre-

tion, with the exception that no seals are to be taken during the stagy season, which embraces the time between August 10 and September 30.

*Driving of seals.*—As the perpetuation of seal life has always been and is now the paramount concern of the Government, and is also of the greatest interest to all persons connected with the seal industry, you will take especial care that no methods are permitted in the driving, killing, or general handling of the seals which in your opinion would directly or remotely be injurious to them or in any way jeopardize even in the slightest degree the increase of the seal herd.

*Killing of pups.*—It was the custom in former years to permit the killing in the fall of a certain number of young seals for the natives' food and clothing. As the skins are not now used for the latter purpose, and as the carcass furnishes not more than 8 pounds of meat when dressed, the value of the food supply thus contributed is not commensurate with the destructive effect which the killing of pups has upon the seal herd. No killing of pups during the coming year will therefore be permitted.

\* \* \* \* \*

Respectfully, yours,

CHARLES FOSTER, *Secretary.*

Maj. W. H. WILLIAMS,  
*United States Treasury Agent.*

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TREASURY DEPARTMENT,  
OFFICE OF THE SECRETARY,  
Washington, D. C., April 26, 1893.

[Extract.]

SIR: Having been appointed Treasury agent in charge of the Seal Islands in Alaska, you are directed to proceed to San Francisco, Cal., so as to arrive there as early as the 10th proximo, and to take passage on the first available conveyance to the islands.

\* \* \* \* \*

Copy of the *modus vivendi* between the United States and Great Britain is also inclosed for your information, which you will observe continues in force pending the arbitration of the Bering Sea question, unless otherwise provided for after October 31, 1893.

In accordance with the provisions of the *modus vivendi* the number of seals to be taken during the season of 1893 will be limited to 7,500. In taking this number you will permit no seals to be killed except those yielding good merchantable skins. The killing of pup seals for food for the natives or any purpose will not be permitted.

The killing season will begin as soon after your arrival as in your judgment the rookeries are in proper condition for driving, and the time for taking seals is left to your discretion, with the exception that no seals are to be taken during the stagy period, which is understood to be the period between the 10th of August and the 30th of September. It is believed that if the killing should be confined between the 1st of June and the 10th of August a better quality of skins would be obtained, and less injury would be done to the rookeries. This matter is, however, left, as above stated, to your discretion, and in reference thereto you will confer fully with the representative of the company,



its interests and those of the Government in the preservation of the fur seal industry being indential.

\* \* \* \* \*

Respectfully, yours,

C. S. HAMLIN, *Acting Secretary.*

Mr. JOSEPH B. CROWLEY,

*Special Agent in Charge of Seal Islands,  
Washington, D. C.*

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*Mr. Gresham to Mr. Bayard.*

DEPARTMENT OF STATE,  
*Washington, October 27, 1893.*

SIR: I have the honor to acknowledge your dispatch of the 30th ultimo, in which you state that, on Lord Rosebery's return to London from Balmoral, you will continue your efforts for adequate and concurrent action on the award of the Paris Tribunal. You also say:

To suspend wholly, even for a single year, the seal catch on the islands might be highly prejudicial to the United States or their lessees, and, as in the provisional or temporary arrangement of May, 1893, between Russia and Great Britain, a limit of 30,000 seals on the Russian islands was agreed to, it would seem a very reasonable figure to adopt for the catch on the Pribilof Islands, whose product has been supposed to be about double that of the Russian islands. I would respectfully ask for an expression of your views on this subject, and how far we ought to go in restricting the seal catch on these islands.

I sent you yesterday copy of the contract which secures to the North American Commercial Company the exclusive right to take seal on the Pribilof Islands, thinking it advisable that you should know the precise relations between the United States and that company. The President is not now prepared to say how far we ought to go in limiting the seal catch should Great Britain make a demand of that kind. You are well informed on the subject of the seal industry and all matters relating to it, and we rely with confidence upon your judgment in dealing with Lord Rosebery. If Great Britain firmly insists that only a limited number of seals shall be taken on the islands, and you must yield or fail in the effort to obtain a satisfactory understanding for concurrent action, you can report the fact to me, and I will communicate it to the President for his direction.

I have no doubt you will be impressed by the reply of the Japanese minister when I asked him, in an informal conversation, if his Government was willing to give its adhesion to the regulations recommended by the arbitrators. You have the substance of that conversation in my instructions of the 24th instant. I must say that the position of Japan seems to be reasonable. An agreement between the United States, Great Britain, Russia, and Japan, of the character suggested by the minister of the latter country, for the protection of the seal north of a line reaching from California to Japan, along the thirty-fifth degree of north latitude, would likely be respected by other powers. It is very important that the two Governments should come to an understanding which will secure the desired result before the next sealing season begins, and it is not doubted here that you are striving to accomplish that end.

The Russian minister told me a day or two ago that, when informed of the means adopted by the United States and Great Britain to give practical effect to the regulations, his Government would without delay determine whether or not it could give its adhesion, as requested. It may be that other powers will not be willing to be bound by the regulations recommended by the tribunal without knowing what means will be employed by the two Governments for their enforcement.

I am, etc.,

W. Q. GRESHAM.

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*Mr. Bayard to Mr. Gresham.*

EMBASSY OF THE UNITED STATES,  
*London, November 1, 1893. (Received November 11.)*

SIR: I have the honor to state that, pursuant to your directions, the copies of the protocols of the arbitration in the Bering Sea question have just been sent to me from the embassy of the United States at Paris.

The oral arguments of counsel, save and except that of James C. Carter, esq., have not yet been published, as I am as yet informed, and I would like to receive them as soon as they are in print.

As attendant upon framing legislation and coming to an international agreement to carry out the decisions and recommendations of the Paris Tribunal in their award upon the business of fur-seal fishing in Bering Sea, I have also the honor to inclose herewith a copy of a telegram which appeared yesterday in the London newspapers, which indicates the extent to which "pelagic" sealing was carried on in the present season, and likewise suggests a method by which it is proposed to evade the duties and obligations imposed by the treaty and the award of the arbitrators, only upon the Governments of the United States and Great Britain, leaving depredation upon seal life under other flags not only unchecked, but in effect affirmatively legalized by the text of the award and decisions.

Up to this date "pelagic" sealing has been carried on only under the flags of Great Britain and the United States, but what may be done under the flags of other nationalities hereafter can not be definitely anticipated. Therefore, as at present instructed, and in anticipation of cooperative penal enactments by the United States and Great Britain against killing seal in the sea, in violation of the award, it would seem highly expedient to caution the Governments of Japan and Korea, as well as the Sandwich Islands, against attempts which may be made to carry on under their flags, fur-seal fishing, contrary to the letter and intent of the Paris decision and recommendations. In this connection I take leave to remark that the avowed reason for the contention against pelagic sealing on the part of the United States has always been the preservation of the seal species for the use of civilized mankind, and the gist of the argument against killing seal in the water has been the impossibility of discrimination between sexes and ages, as well as the insecurity of capture of a large proportion of the seals when so killed.

This rule is not local, but necessarily applies to the fur-seal species everywhere; so that the Government of the United States, in order to be consistent, should be prepared to show its unwillingness to kill seal in the water anywhere, and at all seasons; that is to say, "pelagic"



sealing is destructive to the species, and it is only on land that proper discrimination can be exercised.

Therefore, in asking the adhesion of other nations to the regulations prescribed, and recommendations suggested by the arbitrators at Paris, as is stipulated by Article VII of the treaty of February 1892, between the United States and Great Britain, the United States should be prepared to extend the proposed rules into those regions of the high seas adjacent to the sealing islands and sealing resorts of other nations.

The interests of Russia and Japan are almost identical with those of the United States, and what is desirable for one is so alike to all. Each of these powers possesses territory to which the fur seal resort when breeding, and equally with the United States need protective regulation.

I venture therefore, to submit to your judgment the advisability of instructing the representatives of the United States in Japan, Korea, and the Sandwich Islands, to intimate confidentially to those Governments the present condition of affairs, and that the United States and Great Britain are about unitedly to enforce protective measures, by the establishment of a zone of interdiction around the Pribilof group, and a close season from May 1, to July 31, in the Pacific Ocean north of the thirty-fifth degree of north latitude and invite their adhesion to the regulations proposed by the award as published.

You will observe that I have not referred to the fact that, by article 2, of the Paris award, the water boundary described in article 1, of the treaty of 1867 (Alaskan purchase), between the United States and Russia, is the limit in Bering Sea within which the interdiction is to be enforced, but it seems very clear that justice and self-consistency demand of the United States that this interdiction against killing seal at sea would extend to all waters, including those adjacent to the territorial possessions of other countries, and to which the seal resort. Russia and Japan are the two nations territorially interested, and the Sandwich Islands and Korea can justly be appealed to not to allow their flags to be used for purposes unfriendly to the United States.

Of course by the treaty of February, 1892 (Article VII), Great Britain is bound to cooperate with the United States in securing adhesion to the regulations, and it is assumed that of course (it) will do so.

And at the proper time, and in such mode as may be deemed most advisable, such cooperation will be claimed by the United States; but at the present writing the point I desire to make is the word of friendly notification and caution to Japan, Korea, and the Sandwich Islands, lest the use of their flags might be obtained by the solicitation of fur-seal hunters from the United States or Great Britain and her colonies.

The interests of Russia are so entirely similar to those of the United States and so involved in a similar fate that I can not imagine any such warning would be requisite in that quarter.

The participation of Sweden and Norway, France and Italy in the composition of the Paris Tribunal and framing its decrees would seem to render it impossible that those Governments would permit their flags to be used as a cover of depredations against the interests which they themselves had so benevolently adjudicated. So that I think all that need be done in the light of the enormous extent of pelagic sealing during the current year, as shown by the inclosed telegram, and the suggestion of a transfer of the sealing fleet to Japanese waters, and possibly under the Japanese flag, will be a notification and warning by our representative to that Government of the possibility of such attempt and the necessity of preventing its success. You may pos-



sibly think it worth while, informally, and in conversation at Washington, to broach the subject to the Japanese minister.

I shall proceed as speedily as possibly in the duty assigned me of coming to such an agreement of cooperation with Her Majesty's Government as will give efficient force to the award of the Paris Tribunal.

I have the honor, etc.,

T. F. BAYARD.

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[Inclosure.—Press telegram.]

THE BERING SEA FISHERIES,  
*Victoria, British Columbia, October 25.*

The British Columbia sealing catch, including the take of two American vessels, amounts to 70,000 skins. Many of the schooners will go to Japan next season, about half their number setting out before Christmas. It is stated that some of these vessels are likely to transfer their allegiance to another flag.

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*Mr. Bayard to Mr. Gresham.*

EMBASSY OF THE UNITED STATES,  
*London, November 11, 1893. (Received November 20.)*

SIR: Referring to my dispatch of November 1, I have now the honor to acknowledge your several instructions of October 18, 24, 26, and 27, all having relation to the fur-seal fishery in Bering Sea, and all of which have been perused with great interest.

My dispatch above referred to was mailed just in advance of the arrival of the several instructions above alluded to, but it gave me no little satisfaction to discover that the expression of views I had the honor of submitting therein to you were quite in line with your own, and that in fact you had anticipated certain suggestions I had made therein.

It was quite important for me to possess copies of the contracts of the United States with the lessees of the Pribilof group, and also copies of the Treasury instructions, in 1890 and 1892, to the general and special agents in charge of the Seal Islands.

The report of your conversations with the representatives of Japan, Russia, and Great Britain is impressive and valuable, and I quite concur in the views, as conveyed, of the President and yourself as to the necessity for a general plan of international arrangement in order to give substantial efficacy and value to the regulations and recommendations of the Tribunal of Arbitration.

I venture to draw your attention to the terms of these Treasury Department instructions relating to the number of seal (7,500) which may be taken on the islands under the *modus vivendi*, which continued in force "pending the arbitration of the Bering Sea question, unless otherwise provided for after October 31, 1893."

The arbitration having now closed, and a decision having been reached, there does not appear to be any provision whatever now in force limiting the number of seals which may be taken on the Seal

Islands of the United States; but by the contract of March 12, 1890, between the United States and the North American Commercial Company it is expressly stipulated that during the year ending May 1, 1891, "the number of fur seals to be taken and killed for their skins shall not exceed 60,000."

With this exception, as to the single year 1891, the Secretary of the Treasury is vested with sole discretion and authority to impose restrictions or limitations upon the seal catch on these islands.

I assume that the Secretary of the Treasury will not fix the number of seals which may be taken in the islands during the next season until the desired international arrangement shall have been made.

May I ask to have obtained for me, at the Treasury Department, a summarized statement of the number of seals taken in the Pribilof Islands in each year since 1871.

I suppose no seals have at any time been taken by the lessees of the United States, excepting on those islands, and that no other leases or licenses were ever granted by the United States for sealing elsewhere.

The fact, however, might as well be stated authoritatively by the Treasury Department in connection with the number of seals taken annually since 1871.

I have, etc.,

T. F. BAYARD.

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*Mr. Gresham to Mr. Bayard.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, November 17, 1893.

The President is anxious that an agreement should speedily be reached for carrying out the decision and recommendations of the Paris Tribunal. If Lord Rosebery has met you in a proper spirit we do not doubt results. Are you hopeful?

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*Mr. Bayard to Mr. Gresham.*

[Telegram.]

LONDON, November 18, 1893.

Assure President commencement formal negotiations hitherto prevented by circumstances beyond my control. Secretary of state for foreign affairs just returned. Shall proceed promptly as possible. Good reason to expect efficient cooperation.

*Mr. Gresham to Mr. Bayard.*

DEPARTMENT OF STATE,  
*Washington, November 20, 1893.*

SIR: I have received and considered your dispatch of the 1st instant, relative to the necessity of obtaining the adhesion and cooperation of other nations, and notably of Japan, Hawaii, Korea, and Russia, to the award and regulations submitted by the Paris Tribunal of Arbitration.

My instructions of the 24th ultimo, which you had apparently not received at the date of writing, anticipates to some extent specific response to your suggestions, at least so far as showing the desire of Japan to become a party to some protective arrangement embracing the entire waters above the thirty-fifth degree of north latitude and between the American and Japanese coasts.

As you remark, the interests of Russia, like those of Japan, are almost identical with those of the United States—what is desirable for one being alike so for all. The concurrence of Russia in any appropriate scheme of protection by the United States and Great Britain may reasonably be expected, and the concurrence of Japan is promised if all the waters above the thirty-fifth degree of north latitude be protected.

The exigencies of the case, however, preclude any delay in reaching the necessary arrangements between the United States and Great Britain as the two parties primarily interested in giving immediate and positive effect to the award and proposals of the Paris Tribunal; and the negotiations to that end should not be made dependent on the acquiescence of other powers.

The President does not doubt that you will press with all urgency negotiations for an agreement upon measures which will be efficient in carrying out the submitted regulations. This is of primary importance.

I am, etc.,

W. Q. GRESHAM.

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*Mr. Gresham to Mr. Bayard.*

DEPARTMENT OF STATE,  
*Washington, November 21, 1893.*

SIR: I received late yesterday your dispatch of November 11, and at once addressed a letter to the Secretary of the Treasury requesting the information called for. It may take a few days to make up a statement which will be satisfactory, but it will be forwarded to you as soon as it is received.

I inclose copy of a note received yesterday from the Japanese minister at this capital.\* It will gratify you, no doubt, to know that the Japanese Government is willing to give its adhesion to the regulations recommended by the Paris Tribunal of Arbitration on the condition named.

The President thinks it important that Great Britain and the United States should come to an understanding which will make the regulations practically effective before beginning negotiations for an international



agreement between those Governments, Russia and Japan, for the protection of fur seals in the Pacific Ocean north of the thirty-fifth degree of north latitude.

Your dispatch, by telegraph, of the 18th, indicated your belief that Great Britain was meeting you in a proper spirit in your negotiations. This is very encouraging as it is important that an agreement should speedily be reached and announced.

On a visit to the Department yesterday the British ambassador expressed the hope that you and Lord Rosebery would speedily agree upon concurrent action for the protection of the waters embraced within the reported regulations, and that negotiations would immediately follow for an international agreement of the character suggested between the four powers.

I am, etc.,

W. Q. GRESHAM.

*Mr. Gresham to Mr. Dun.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, November 22, 1893.

It is reported that American and Canadian seal fishery vessels may be placed under the Japanese flag next season. Comity will naturally counsel Japanese Government to defeat any such attempted abuse of friendly flag to evade results of Paris Arbitration.

*Mr. Bayard to Mr. Gresham.*

[Telegram.]

LONDON, November 23, 1893.

Secretary of state for foreign affairs has presented impressive reasons for not withdrawing seal fishery negotiations from British ambassador at Washington. Satisfactory explanation by cable impracticable. Will communicate immediately.

*Mr. Uhl to Mr. Bayard.*

DEPARTMENT OF STATE,  
Washington, November 24, 1893.

SIR: Referring to the Department's reply of the 21st of this month to your dispatch of the 11th instant, relative to the Bering Sea seal question, I enclose for your information a copy of a letter from the Acting Secretary of the Treasury, furnishing the information requested by you regarding the number of seals taken on the Pribilof Islands.

I am, etc.,

EDWIN F. UHL, *Acting Secretary.*

[Inclosure.]

*Mr. Curtis to Mr. Gresham.*

TREASURY DEPARTMENT,  
OFFICE OF THE SECRETARY,  
Washington, D. C., November 22, 1893.

SIR: I have the honor to acknowledge the receipt of your communication of the 21st instant, wherein request is made for certain information regarding the number of seals taken on the Pribilof Islands, and in reply to inclose herewith a statement showing the number of seals killed on the islands of St. Paul and St. George, for all purposes, from 1870 to 1892, both inclusive. Seals have not been taken by the lessees elsewhere than on the islands of St. Paul and St. George, and no other companies than the North American Commercial Company and its predecessor, as lessees of the islands (the Alaska Commercial Company), have been granted licenses or leases by the United States for sealing on the islands or elsewhere.

With reference to the number of seals taken in 1891 and to note 2 on the inclosed statement, I refer you for full information on the subject to the report of Special Agent W. H. Williams, dated October 10, 1891, a printed copy of which is herewith inclosed.

Respectfully, yours,

W. E. CURTIS, *Acting Secretary.*

*Number of fur seals killed on islands of St. Paul and St. George, Alaska, for all purposes from 1870 to 1892, both inclusive.*

Year.	Killed on St. Paul.	Killed on St. George.	Total killed on both islands.
1870	15,314	8,459	23,773
1871	81,803	21,157	102,960
1872	81,819	27,000	108,819
1873	81,987	27,190	109,177
1874	98,139	12,446	110,585
1875	94,960	11,500	106,460
1876	83,157	11,500	94,657
1877	67,810	16,500	84,310
1878	88,519	20,804	109,323
1879	80,321	22,190	110,511
1880	84,779	20,939	105,718
1881	83,774	21,289	105,063
1882	79,834	19,978	99,812
1883	63,295	16,214	79,509
1884	88,861	16,573	105,434
1885	88,880	16,144	105,024
1886	88,085	16,436	104,521
1887	89,092	16,668	105,760
1888	86,270	17,034	103,304
1889	87,392	15,225	102,617
1890			21,000
1891			13,482
1892			7,549
Total	1,622,091	355,246	2,019,368

NOTE 1.—The above statement for 1870 to 1889, both inclusive, includes all seals killed from all causes, either intentional or accidental, incident to the taking of sealskins on the two islands. The statement for 1890, 1891, and 1892, represents only those skins taken and which were received by the company as part of their quota. The stags or defective skins are not included in 1890, 1891, and 1892.

NOTE 2.—The total for 1891 is made up as follows: 7,215 skins taken prior to signing of *modus vivendi* and issuance of President's proclamation. The remainder, 6,267, were taken after signing of *modus* as part of the 7,500 allowed them under the agreement.

*Mr. Dun to Mr. Gresham.*

[Telegram.]

TOKYO, November 27, 1893.

Japanese Government agrees to take measures to prevent foreign vessels using the flag of Japan to evade seal fisheries regulations, but declines to require bona fide Japanese vessels to observe regulations unless protection asked for should be given Japanese seal fisheries.

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*Mr. Dun to Mr. Gresham.*

LEGATION OF THE UNITED STATES,

*Tokyo, Japan, December 1, 1893.*

SIR: On the 24th ultimo, the day following the receipt of your telegraphic instruction dated November 22, 1893, I sought an interview with Mr. Mutsu, His Imperial Japanese Majesty's minister for foreign affairs.

Owing to the illness of Mr. Mutsu, I was received by Mr. Tadasu Hayashi, vice-minister of foreign affairs, to whom I communicated the reading of your telegram and expressed the hope that Japan, in the spirit of friendship that has always governed the relations between the two countries, would meet the wishes of my Government in respect of requiring the observance by vessels flying the Japanese flag of the regulations proposed by the Paris Tribunal.

I said to Mr. Hayashi that this action on the part of Japan would not in my opinion, weaken her claim for protection for her own seal fisheries; that the regulations of the Paris Tribunal could not be extended to the waters near the Japanese islands except by special arrangements between Japan and foreign powers; that, although I was not authorized to say what position my Government would take in the premises, I felt confident that the United States was favorably disposed to meet Japan's wishes in regard to reasonable proposals for the protection of her seal fisheries; but that however well disposed the other great powers might be toward Japan's proposals for the extension of the principle of protection to her seal fisheries, it would necessarily take time to complete the negotiations and determine upon a reasonable zone within which that principle should apply; that in the meantime the regulations of the Paris Tribunal of Arbitration had been announced to the world and it was the intention of the United States and Great Britain to put them into operation next season; that Japan was invited, as a matter of comity and good neighborhood, to adhere to those regulations in order that her flag might not be used to evade them.

I also pointed out to Mr. Hayashi that Japan had not yet submitted to the United States and Great Britain definite proposals for the protection of her seal fisheries; that no zone had been defined within which the taking of seal should be prohibited; that the Paris Tribunal having completed its labors, any arrangement that might hereafter be made for the protection of Japan's seal fisheries must be separate and distinct from the finding of that body; and that such being the case, it appeared to me to be hardly in accord with Japan's well-deserved



reputation for fairness that she should make her adhesion to the regulations formulated by an international tribunal of arbitration, for the protection of an American interest, conditional upon the favorable reception by several foreign powers of her proposals not yet sufficiently matured to admit of definite consideration.

At the close of our first interview, Mr. Hayashi said he could not say what action his Government would take in the matter until he had consulted with Mr. Mutsu.

On the 26th ultimo Mr. Hayashi called at this legation and informed me that he was authorized by the minister for foreign affairs to say that the Japanese Government would do everything in its power to prevent the use of the Japanese flag by foreign sailing vessels to evade the regulations of the Paris Tribunal, but that it could not, pending present negotiations, issue an ordinance requiring bona fide Japanese vessels to observe them unless the proposals submitted to the United States and Great Britain for the protection of Japanese interests in the same direction were favorably entertained.

On the 27th ultimo I had the honor to convey to you the substance of this response from the Japanese Government in a telegram.

As a matter of fact, bona fide Japanese vessels have not heretofore been engaged in hunting fur seal beyond the immediate waters of the northern islands of Japan, and the fear of disastrous consequences will, doubtless, prevent this class of vessels extending their operations hereafter to waters where the regulations of the Paris Tribunal apply.

I have, etc.,

EDWIN DUN.

*Mr. Gresham to Mr. Bayard.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, December 4, 1893.

You will inform Lord Rosebery that, yielding to his desire, this Government consents further negotiations for making the award of the Paris Tribunal effective shall be conducted here with the British ambassador. While your generous offer to visit Washington and aid us is appreciated, the President will not impose the burden upon you.

*Mr. Gresham to Mr. Tateno.*

DEPARTMENT OF STATE,  
Washington, December 5, 1893.

SIR: I have the honor to acknowledge the receipt of your note of the 20th ultimo,\* in which you allude to the former correspondence looking to the participation of Japan with the United States, Great Britain, and other powers in an international agreement for the protection of

\* Not printed.

fur seals in Bering Sea. In the course of your note you say, by direction of your Government, "that Japan is prepared to become a party to the agreement or regulations for the protection of fur seals, made in pursuance of the Bering Sea award, and to enter upon formal negotiations for that purpose at such time and in such manner as may be deemed suitable." You intimate that as a condition to such future adherence to the agreement or regulations to be made in pursuance of the award, Japan would ask that they "shall be extended to the northernmost portion of the island of Yesso and to the Kurile Islands."

The President is much gratified at the cordial disposition of His Majesty's Government, as elicited by the preliminary inquiry to which your note adverts. The award of the Tribunal of Arbitration at Paris contemplates that the adhesion of other powers to the regulations reported by that high body shall be invited by the parties to the arbitration, and the President is happy to believe that the result of the pending negotiations between the United States and Great Britain for the application of the regulations so reported will be such as to permit the friendly concurrence of other powers toward the common interest involved in the protection of seal life, when formally invited by the two parties.

Accept, etc.,

W. Q. GRESHAM.

*Mr. Dun to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
*Tokyo, Japan, December 13, 1893.*

SIR: I have the honor to inclose herewith translation copies of instructions issued by the department for foreign affairs and the department of communications, respectively, to Japanese consuls at San Francisco, Vancouver, and other foreign ports, and to the proper authorities on the seacoast of Japan, to prevent the use of the Japanese flag by foreign vessels for the purpose of evading the regulations of the Paris Tribunal for the protection of fur seal in Bering Sea.

I have, etc.,

EDWIN DUN.

[Inclosure 1.]

*Caution concerning the granting of temporary certificates of registration.*

DEPARTMENT OF FOREIGN AFFAIRS,  
*Tokyo, December 1, 1893.*

*To the Consuls at San Francisco, Vancouver, Tientsin, Shanghai, Hong-kong, Singapore, Fusan, Ninsen, Korsakoff, and the Commercial Agent at Vladivostock:*

Having recently heard that there are certain foreigners abroad who, with the object of carrying on illicit fishing, attempt to make use of the names of Japanese in the sale and purchase of vessels and the transfer of registration of the same to Japan through the recognition at the imperial consulates, and thereupon to proceed directly to the various localities in pursuit of such purpose, you are instructed in the

issuance of temporary certificates of registration of vessels to act in the matter with strict caution, so that no certificates shall be granted to parties carrying on such dishonorable business.

HAYASHI TADASU,  
*Vice-Minister.*

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[Inclosure 2.]

DEPARTMENT OF COMMUNICATIONS,  
*Tokyo, December , 1893.*

*To the Governors of Territories, Imperial Municipalities, and Prefecture upon the Seaboard:*

I am instructed to inform you that an agreement has been concluded between Great Britain and the United States concerning fishing in Bering Sea, and that report has reached here that since Japan is not a party thereto, and not bound thereby, some attempts were likely to be made to have vessels belonging to nationals of both countries registered under the names of Japanese and fly the Japanese flag for the purpose of following the pursuit of fishing in Bering Sea.

As the control of fishing by the different countries has become strict, no doubt these designing schemes are contrived to evade the law. In cases, therefore, of the purchase of foreign vessels, if the transfer of registration is requested, you are, upon strict examination, to act in the matter so that no such malfeasance as the above may arise.

SAITO HIDE-AKI,  
*Chief of the Marine Bureau.*

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*Mr. Bayard to Mr. Gresham.*

EMBASSY OF THE UNITED STATES,  
*London, December 30, 1893. (Received January 9, 1894.)*

SIR: Immediately upon receiving your telegraphic instruction to the effect that, yielding to the desire of Her Majesty's Government, the Government of the United States consented to conduct the requisite negotiations at Washington, I addressed a note to Lord Rosebery under date of December 5 and on the 11th received his lordship's reply thereto, and I inclose herewith copies of this correspondence.

Continued reflection upon the situation serves to confirm the opinion I have already had the honor to submit to you—that an agreement that would bind Great Britain (and especially her North American subjects) to a faithful fulfillment of the regulations prescribed by the tribunal at Paris—would under existing circumstances be accomplished with less delay and more conclusively and satisfactorily at Washington than in London.

I have, etc.,

T. F. BAYARD.



[Inclosure 1.]

*Mr. Bayard to Lord Rosebery.*

EMBASSY OF THE UNITED STATES,  
*London, December 5, 1893.*

MY LORD: Upon receiving your note of November 21, I at once cabled its purport to my Government, and stated at length in a dispatch, your reasons for desiring Sir Julian Pauncefote, the British ambassador, to continue at Washington his connection with the Bering Sea negotiations, and assist in the concluding cooperative action of the two Governments to carry into full effect the treaty of February 29, 1892, the award of the Tribunal of Arbitration at Paris, and the regulations prescribed by that body for the conduct of fur-seal fishing in the waters of Bering Sea and the North Pacific Ocean.

I have now the honor to inform you that I have to-day received by cable from the Secretary of State an instruction to make known to you, that, yielding to your lordship's desire as expressed in conversation and in your note of November 21, the President consents that the negotiations needful to give effect to the decisions of the Tribunal of Arbitration shall be conducted at Washington, and that Her Majesty's Government shall be represented therein by Sir Julian Pauncefote.

Your Lordship will, I am sure, appreciate this evidence on the part of the President to facilitate in every way the accomplishment of the duty yet remaining to be performed by the two Governments, of promptly and thoroughly carrying into effect the decisions of the Tribunal of Arbitration, and the mutual covenant of the two Governments to cooperate in securing the adhesion of other powers to the regulations imposed by the arbitrators.

The rapidly shortening interval before the next sealing season will commence admonishes both Governments entrusted with the duty to expedite the negotiations, and enact, respectively, the legislation needed to execute the decisions of the tribunal, and I shall await with interest your Lordship's communication that Her Majesty's ambassador at Washington has been duly empowered and instructed in the premises.

I have, etc.,

T. F. BAYARD.

[Inclosure 2.]

*Lord Rosebery to Mr. Bayard.*

FOREIGN OFFICE,  
*December 11, 1893.*

YOUR EXCELLENCY: I have had the honor to receive your note of the 5th instant, stating that your Government had consented that the negotiations for giving effect to the decisions of the Bering Sea Arbitration Tribunal should be conducted at Washington by Sir Julian Pauncefote.

Upon the receipt of your excellency's note, I at once instructed Her Majesty's representative by telegraph to express my acknowledgments to the United States Government for their courteous acquiescence in the views of Her Majesty's Government on this subject, and I avail myself of this opportunity to ask your excellency to accept my best thanks for the trouble which you have also taken in this matter.

I beg to assure you that no time shall be lost in issuing the requisite instructions to Sir Julian Pauncefote with regard to the negotiations.  
I have, etc.,

ROSEBERY.

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*Memorandum, British Embassy.*

JANUARY 4, 1894.

The existing British legislation does not cover the area to which the regulations prescribed by the award apply.

A draft bill is now being prepared to enforce the provisions of the award, but Her Majesty's Government consider that unless some international agreement can be produced to justify the insertion of fresh provisions, the bill in question must be strictly limited to the terms of the award.

Her Majesty's Government are anxious in the first place to know what action the United States Government are prepared to take respecting the declarations of the arbitrators, which were appended to the award. They consider recommendation No. 1 as specially important, as it will probably affect the accession of other powers to any agreement that may be arrived at.

The Japanese Government have expressed a desire to take part in the discussions respecting the regulations, in order that a general scheme, applicable also to Russian and Japanese waters, may be prepared. Her Majesty's Government would be glad to know whether the United States Government would be disposed to invite the Russian and Japanese Governments to take part in such a discussion at once.

Her Majesty's Government could not consent to the unconditional application of the provisions of the award to other waters than those specified by the arbitrators, but they would be willing to discuss any modifications which would allow of the provisions being so applied.

The Earl of Rosebery considers it necessary that Her Majesty's representative at Washington should be assisted by a delegate from Canada, and thinks it desirable that such a delegate should be accredited as a negotiator. His lordship adds that it is of great importance that Her Majesty's Government and the Government of the United States should exchange drafts of the proposed legislation on each side with as little delay as possible.

J. P.

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*Mr. Gresham to Mr. Bayard.*

[Telegram].

DEPARTMENT OF STATE,  
Washington, January 6, 1894.

British ambassador still urges United States agree that a Canadian shall be admitted as negotiator for concurrent action to make regulations reported by Paris Tribunal effective. It is the President's desire that you inform Lord Rosebery this Government will treat with the Imperial Government only.

*Mr. Bayard to Mr. Gresham.*

[Telegram.]

LONDON, *January 8, 1894.*

Minister for foreign affairs agrees British ambassador, Washington, negotiate execution of award alone without Canadian colleague.

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*Mr. White to Mr. Gresham.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
*Petersburg, January 10, 1894. (Received January 11.)*

Russian minister for foreign affairs asks whether the United States is inclined to entertain proposals for modus regarding North Pacific seal fisheries like that now existing between Russia and Great Britain. If so, Russian Government will present such proposal. Dispatch follows.

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*Mr. White to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
*St. Petersburg, January 10, 1894. (Received January 22.)*

SIR: Count Kapnist, director of the Asiatic department at the imperial foreign office, called upon me yesterday to ask whether the Government of the United States would incline to receive proposals from the Russian Government for a modus vivendi similar to that which now exists between Russia and Great Britain.

He said that Russia had delayed this suggestion until after the close of the Paris Arbitration Conference in order not to complicate matters there, but that his Government would be very glad to submit now the proposal above referred to; he wished, however, that before submitting these proposals the Imperial Government could have some information as to the feeling of our own Government in relation to the matter.

He said that Russia would be very glad to have a more complete, comprehensive, and thorough understanding on the subject, but that until this was reached something provisory in the nature of a modus vivendi was very desirable.

He dwelt especially on the provisional character of any such arrangement, and on the fact that it would not exclude a more complete agreement at any future time.

He also dwelt on the desirability of conforming any such agreement now made to that at present existing between Russia and Great Britain, since any material change would of course necessitate changes in that agreement.

As he showed an especial desire for early information and himself suggested a telegram, I have sent you this day the telegram appended.

I am, etc.,

ANDREW D. WHITE.



*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,

*Washington, January 24, 1894.*

EXCELLENCY: When, on the 5th of December last, the President, yielding to the earnestly expressed desire of Her Majesty's Government, consented to transfer from London to this capital the negotiations for the execution of the regulations decided and determined upon by the Tribunal of Arbitration at Paris, for the protection of the fur seal in the Pacific Ocean and Bering Sea outside of territorial waters, it was hoped that the concession to the wishes of Her Majesty's Government would facilitate the adoption of measures necessary for the attainment of that end. This hope was strengthened by the assurance expressed in a note of Lord Rosebery to Mr. Bayard of the 11th of December, that no time should be lost in issuing the requisite instructions to you with regard to the negotiations.

Since the transfer of the negotiations, however, no definite communication in regard to them has been received from Her Majesty's Government, though they have been deferred from day to day to await such a communication. The time thus lost has brought us to the opening of another sealing season without any definite steps having been taken for the execution of the Paris award.

Under these circumstances the President does not think that he would be justified in further awaiting a communication from Her Majesty's Government. The first object to be accomplished is to give immediate effect to the regulations framed by the Tribunal of Arbitration. Those regulations, while general in terms, are designed to attain the principal end which the parties to the arbitration had in view—that of putting an end to the destructive and indiscriminate slaughter of seals on the high seas. It is, therefore, the opinion of this Government that they should be put in force without delay.

Any supplementary rules which may be deemed to be requisite or desirable in order to secure the more efficient execution of the regulations determined upon by the Tribunal of Arbitration as necessary, may form the subject of further negotiation which this Government will be prepared to enter upon without delay. But if something be not done, and speedily done, to give effect to the regulations already determined upon, it is needless to say their object will be defeated. The United States would be glad to prohibit entirely, for a period of three years, or for two years, or for one year, the killing of seals, but unless Her Majesty's Government should be willing to agree to that measure it only remains for the two Governments, at once, to give effect to the regulations determined upon by the tribunal as necessary, in conformity with the treaty.

With a view to facilitate negotiations, I inclose herewith a draft of a convention for the purpose of rendering operative those regulations.

The provisions of this draft are believed to be plain, and do not seem to require extended comment. The first nine articles merely repeat, in identical terms, the corresponding articles of the regulations decided and determined upon by the Tribunal of Arbitration. The other five articles contain stipulations essentially connected with the preceding nine, and intended to secure their execution. They relate merely to the enactment of necessary laws, the policing of the seas, the imposition of penalties, and the identification of vessels, in the manner required

by the regulations of the Paris Tribunal, recited in the nine preceding articles.

I inclose herewith a copy of an act of Congress, approved February 21, 1893, which was adopted for the purpose of extending existing statutes to any waters in which the killing of seals might, either as the result of an international arrangement, or of the arbitration under the treaty of February 29, 1892, be forbidden. It is not doubted that Her Majesty's Government will respond to the disposition manifested in this act of Congress to give effect to the results of the arbitration. Such further legislation as may be required on the part of the United States to secure those results this Government binds itself in the convention hereby proposed forthwith to adopt, a like obligation being imposed on Her Majesty's Government to adopt laws necessary on their part.

I have the honor to request that this communication may have your early and most earnest attention.

I have, etc.,

W. Q. GRESHAM.

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[Inclosure 1.]

#### DRAFT MINUTES.

The United States of America and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, recognizing their obligation under the treaty of February 29, 1892, to consider the award of the Tribunal of Arbitration made under and by virtue of said treaty as a full, perfect, and final settlement of all the questions by said convention submitted to arbitration, including the regulations decided and determined upon by said tribunal as necessary for the protection of the fur seal in the Pacific Ocean and Bering Sea outside of the territorial waters, and to execute and perform the same as such settlement, have appointed as their plenipotentiaries to conclude a convention for that purpose, that is to say:

The President of the United States of America, ———, and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, ———, who, after having communicated to each other their respective full powers, found in due and good form, have agreed upon and concluded the following articles, to give full effect to the said award and the regulations determined upon by the said tribunal:

#### ARTICLE 1.

The Governments of the United States and of Great Britain shall forbid their citizens and subjects, respectively, to kill, capture, or pursue, at any time and in any manner whatever, the animals commonly called fur seals, within a zone of sixty miles around the Pribilof Islands, inclusive of the territorial waters.

The miles mentioned in the preceding paragraph are geographical miles, of sixty to a degree of latitude.

#### ARTICLE 2.

The two Governments shall forbid their citizens and subjects, respectively, to kill, capture, or pursue, in any manner whatever, during the season extending each year from the 1st of May to the 31st of July, both inclusive, the fur seals on the high sea, in the part of the Pacific Ocean, inclusive of the Bering Sea, which is situated to the north of



the thirty-fifth degree of north latitude and eastward of the one hundred and eightieth degree of longitude from Greenwich, till it strikes the water boundary described in Article I of the treaty of 1867 between the United States and Russia, and following that line up to Bering Straits.

### ARTICLE 3.

During the period of time and in the waters in which the fur-seal fishing is allowed, only sailing vessels shall be permitted to carry on or take part in fur-seal fishing operations. They will, however, be at liberty to avail themselves of the use of such canoes or undecked boats, propelled by paddles, oars, or sails as are in common use as fishing boats.

### ARTICLE 4.

Each sailing vessel authorized to fish for fur seals must be provided with a special license issued for that purpose by its Government and shall be required to carry a distinguishing flag to be prescribed by its Government.

### ARTICLE 5.

The masters of the vessels engaged in fur-seal fishing shall enter accurately in their official log book the date and place of each fur-seal fishing operation, and also the number and sex of the seals captured upon each day. These entries shall be communicated by each of the two Governments to the other at the end of each fishing season.

### ARTICLE 6.

The use of nets, firearms, and explosives shall be forbidden in the fur-seal fishing. This restriction shall not apply to shotguns when such fishing takes place outside of Bering Sea, during the season when it may be lawfully carried on.

### ARTICLE 7.

The two Governments shall take measures to control the fitness of the men authorized to engage in fur-seal fishing; these men shall have been proved fit to handle with sufficient skill the weapons by means of which this fishing may be carried on.

### ARTICLE 8.

The regulations contained in the preceding articles shall not apply to Indians dwelling on the coasts of the territory of the United States or of Great Britain and carrying on fur-seal fishing in canoes or undecked boats not transported by or used in connection with other vessels and propelled wholly by paddles, oars, or sails, and manned by not more than five persons each in the way hitherto practiced by the Indians, provided such Indians are not in the employment of other persons, and provided that, when so hunting in canoes or undecked boats, they shall not hunt fur seals outside of territorial waters under contract for the delivery of the skins to any person.

This exemption shall not be construed to affect the municipal law of either country, nor shall it extend to the waters of Bering Sea or the waters of the Aleutian Passes.



Nothing herein contained is intended to interfere with the employment of Indians as hunters or otherwise in connection with fur-sealing vessels as heretofore.

#### ARTICLE 9.

The concurrent regulations hereby determined with a view to the protection and preservation of the fur seals shall remain in force until they have been, in whole or in part, abolished or modified by common agreement between the Governments of the United States and of Great Britain.

The said concurrent regulations shall be submitted every five years to a new examination, so as to enable both interested Governments to consider whether, in the light of past experience, there is occasion for any modification thereof.

#### ARTICLE 10.

The high contracting parties further agree that they will, respectively, without delay, enact such laws as shall appear requisite to carry into full effect all and every of the foregoing articles, and will from time to time, respectively, enact such further laws as may hereafter appear requisite to the like end.

#### ARTICLE 11.

The high contracting parties will also proceed to maintain now and hereafter in the waters of Bering Sea and of the North Pacific Ocean, from the — day of March until the — day of November in each year, a sufficient force of vessels properly equipped and fitted for the service of enforcing the stipulations herein contained and the laws agreed upon as aforesaid.

#### ARTICLE 12.

It is further agreed that every vessel, citizen, or subject of the nationality or under the jurisdiction of either of the high contracting parties, offending against the prohibitions recited in any of the foregoing articles, or violating any of the provisions of the laws passed for the enforcement of the said articles, or any of them, may be seized and detained by the naval or other duly commissioned officers of either of the high contracting parties, but they shall in case the seizure be made by one party of the citizens, subjects, or vessels of the other, be handed over for trial as soon as practicable to the authorities of the nation to which they respectively belong. The witnesses and proof necessary to establish the offense shall also be sent with them.

The high contracting parties shall forthwith designate, each to the other, a post or posts as near and convenient as may be to the area of the high sea described in the second above article, at which each party may deliver to the other for trial any vessels or persons seized or detained, and appoint a suitable officer or person to receive the same, together with any proofs of guilt, and shall make due provision for the immediate taking of the depositions of witnesses to be used, so far as the same may be used, at the trial or trials, so that such witnesses may not be long detained.

The penalty for every such offense or violation to be imposed upon any person convicted shall be a fine of not less than —, nor more than —, or imprisonment for not more than —, or both such fine and imprisonment, and all vessels whose crew are found engaged

in any such violation, their tackle, apparel, furniture, provisions, and all seal-skins on board, shall be condemned by proceedings in some court of competent jurisdiction and forfeited to the government under whose laws such condemnation and forfeiture shall take place.

#### ARTICLE 13.

It is further agreed that the distinguishing flag to be carried by the vessels which may be licensed by either of the high contracting parties under the provisions of article 4, shall be white in color, — feet long and — feet wide, and have thereon in black a letter S, as large as the said dimensions will admit, and shall always be conspicuously displayed.

#### ARTICLE 14.

The present convention shall be duly ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by Her Britannic Majesty, and the ratification shall be exchanged either at Washington or at London as early as possible.

In faith whereof we, the respective plenipotentiaries, have signed this convention and have hereunto affixed our seals.

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*Sir Julian Pauncefote to Mr. Gresham.*

WASHINGTON, *January 30, 1894.*

SIR: I have the honor to acknowledge the receipt of your note of the 24th instant, inclosing for the consideration of my government the draft of a convention for giving effect (with appropriate legislation) to the award of the Bering Sea Tribunal of Arbitration as regards the regulations therein prescribed for the protection of the fur seal, and applicable to the high seas.

I transmitted a copy of your note and of its inclosures to the Earl of Rosebery by the mail of the 27th instant, and I also telegraphed the substance to him.

On receipt of his Lordship's reply I shall have the honor to address a further communication to you.

I have, etc.,

JULIAN PAUNCEFOTE.

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*Mr. Bayard to Mr. Gresham.*

EMBASSY OF THE UNITED STATES,  
*London, February 21, 1894. (Received March 2.)*

SIR: I have the honor to acknowledge yours of the 26th ultimo,\* inclosing a copy of your correspondence with the British Ambassador at Washington, in relation to the enforcement of the award of the tribunal at Paris, and a draft of a proposed convention to effect this purpose.

Reflection but confirms the opinion which I have heretofore communicated to you (and in which I am happy to find that you so fully concur)-that the first and essential step is the frank, clear, and explicit acceptance by the two governments of the letter and spirit of the decrees of the tribunal.

The importance of accepting the award *ipsissimis verbis* is to prevent a new and different treaty from being substituted for the treaty of February, 1892, and its sequel, the award of the tribunal in August, 1893. These two documents must be kept and considered together as essential and inseparable parts of the same transaction, and the award expressly recites the treaty of February, 1892, one feature of which was the distinct covenant to accept whatever decision might be reached by the arbitrators and enact laws to carry it into effect and procure the adhesion of other nations to the result.

But I will not repeat further what I have heretofore in this correspondence had the honor to state on this subject.

I inclose herewith copies of a report\* just made to Parliament by the British agent at Tokyo (M. de Bunsen), which throws a good deal of light upon the proceedings of the pelagic sealers in the eastern side of the Pacific Ocean, and which indicates impressively the necessity for prompt action by Great Britain and her North American dependencies and the United States, to compel by adequate and penal legislation obedience by their respective citizens to the regulations decreed by the Tribunal of Arbitration, a duty which can not be honorably avoided or delayed.

I have, etc.,

T. F. BAYARD.

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*Mr. Gresham to Mr. Bayard.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, February 22, 1894.

December 4 this Government yielded to the often expressed desire of Great Britain that further negotiations for making effective the award of the Paris Tribunal be conducted here. The British ambassador having since repeatedly informed me that he had not received expected instructions from his Government, the Department, on January 24, addressed him a note formally proposing the immediate conclusion of a convention to put in force the award, including the regulations, but nothing definite has been heard from Sir Julian, although from time to time I have urged that prompt action was necessary. The duty of the two Governments to give effect to the award is plain and simple. This long delay is difficult to understand, and it is the President's desire that you represent the matter impressively to Her Majesty's Government.

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\* Not printed.



*Mr. Bayard to Mr. Gresham.*

[Telegram.]

LONDON, *February 26, 1894.*

Saw Lord Rosebery to-day. Draft of law to give full effect to the award and regulations mailed to Sir Julian Pauncefote last Saturday. Lord Rosebery assures intent to execute award without evasion or hesitation. Have sent him note deprecating delay and impressively urging immediate conclusion of the convention.

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*Mr. Bayard to Mr. Gresham.*

EMBASSY OF THE UNITED STATES,  
*London, February 28, 1894. (Received March 12.)*

SIR: I have now the honor to acknowledge the receipt of your instruction by telegram of the 22d instant in relation to the necessity of efficacious action upon the award and regulations of the Paris Tribunal of Arbitration.

I applied at the foreign office at once for an interview, but Lord Rosebery left town in the afternoon of the 23d, and my interview with him was consequently delayed until the Monday following.

On receipt of your telegram, I at once prepared a note to Lord Rosebery, in accordance with the desire of the President, as expressed in your telegram, but considered it expedient to have some conversation with him before placing the note in his hands (which I did, however, before leaving), a copy of which is herewith inclosed.

In the course of the conversation, after being informed that the draft for an act of Parliament, to give effect to the regulations determined by the arbitrators, had gone forward to Sir Julian Pauncefote at Washington, I expressed my surprise and regret that Sir Julian had not been definitely instructed to sign with you the convention, accepting in full the award of the Paris tribunal and the regulations prescribed by that body, leaving penal legislation, framed with intent to enforce the regulations, to be cooperatively provided in addition by the two powers.

I impressed upon his Lordship the elaborate presentation and prolonged argument of the case on both sides before the arbitrators, with the voluminous testimony which had resulted in a very careful and well considered judgment, which was absolutely binding on the high contracting parties, and must be honorably accepted and obeyed as to every provision, and in the very words employed by them.

This having been done then the proper language to enforce the regulations could readily be agreed upon.

Lord Rosebery did not seem aware of the proposition for a convention, and asked why the cooperative legislation would not be sufficient, adding, with some positiveness, that I might rest assured that it was their purpose to evade nothing, but to join us in giving full effect to the award.

To this last remark I promptly, and of course, assented, but gave my reasons as above stated for believing a convention to be manifestly the most direct and efficient step to attain the end in view.

His Lordship called in one of the under secretaries, to whom I repeated my views, and he promised, after consultation with his law experts, to communicate with me.

I did not desire, however, to press the matter with him so far as to divert the settlement from Washington, or to give warrant for the creation of any delay on this side the Atlantic.

My conviction strengthens that a substantial obedience to the prescribed regulations, especially that feature which forbids at all times the use of firearms in seal hunting in Bering Sea, must render the business of such little profit that it will not be worth pursuing. Nor do I see how the Canadians can, without suicidal discredit, withhold their legislative cooperation.

I have, etc.,

T. F. BAYARD.

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[Inclosure.]

*Mr. Bayard to Lord Rosebery.*

EMBASSY OF THE UNITED STATES,  
*London, February 23, 1894.*

MY LORD: I am to-day instructed by cable to convey to Her Majesty's Government an expression of the disappointment felt by the President in the unexpected and regretted delay in coming to an agreement for the efficient execution of the regulations for the conduct of fur-seal fishing in Bering Sea and the Northern Pacific Ocean, which were determined and established by the Tribunal of Arbitration, and promulgated on August 15 last.

A review of our correspondence will disclose that, as early as the middle of September last, I had the honor to address a note to your lordship, the object of which was to make these regulations practically effective in due anticipation of the sealing season of the present year.

And that it was in consequence of your Lordship's suggestions and urgent representations in your note of November 21, in reply to mine of the day previous, that I became empowered on December 5 to communicate to you that, "yielding to your Lordship's desire, as expressed in conversation and in your note of November 21, the President consents that the negotiations needful to give effect to the decisions of the Tribunal of Arbitration shall be conducted at Washington, and that Her Majesty's Government shall be represented by Sir Julian Pauncefote."

And I would also recall to your Lordship that Washington was expressly proposed by you as the scene of the contemplated negotiation, because of the greater expedition if conducted there.

On the 11th December I had the honor to receive your reply, stating that—

Upon the receipt of your excellency's note I at once instructed Her Majesty's representative, by telegraph, to express my acknowledgments to the United States Government for their courteous acquiescence in the views of Her Majesty's Government on this subject, and I avail myself of this opportunity to ask your excellency to accept my best thanks for the trouble which you have also taken in this matter.

I beg to assure you that no time shall be lost in issuing the necessary instructions to Sir Julian Pauncefote with regard to these negotiations.

The contents of this note were duly communicated to my Government; and since then from time to time I have been informed by the Secretary of State that he had held several interviews on the subject with Sir Julian Pauncefote, who was, however, still awaiting the definite instructions



from his Government, which would enable him to join in a convention for effectually executing the apparently plain and simple duty of giving effect to the award and decisions of the Tribunal of Arbitration, according to the terms of the treaty of February 29, 1892, and the concurrent regulations determined and established for the proper protection and preservation of the fur seal in, or habitually resorting to, the Bering Sea, outside the jurisdiction and limits of the respective Governments.

The season of the migration northward of the seal herds is now near at hand, and reports, apparently well founded and most disquieting, are current of extensive preparations of sealing vessels to continue the pelagic and indiscriminate killing and capture of seals, regardless of the regulations determined by the Tribunal of Arbitration as necessary for the proper protection and preservation and the species.

Under these circumstances, I am impelled to apply to your Lordship, in order that no further time may be lost in issuing the requisite instructions to Sir Julian Pauncefote at Washington to proceed, so that the great purposes for which resort was had to the principle of voluntary and amicable arbitration between the two friendly powers may not be deprived of complete success.

I have the honor to be, etc.,

T. F. BAYARD.

*Mr. Bayard to Mr. Gresham.*

EMBASSY OF THE UNITED STATES,  
*London, March 7, 1894. (Received March 16.)*

SIR: In continuance of the subject of my last dispatch of February 28 and its inclosures, I have now the honor to inclose herewith a copy of a note, dated the 2d instant, which I received on the 3d instant after the departure of the mail to the United States on that day.

By the resignation of Mr. Gladstone, Lord Rosebery has become prime minister in his stead; and although the Earl of Kimberley is gazetted as secretary of state for foreign affairs, yet he has not yet formally been inducted into office, nor have I been notified of his assumption of its duties.

The tenor of Lord Rosebery's note is to me disappointing, and I shall at the earliest possible moment point out to his successor some of the reasons for such a feeling on the part of the Government of the United States. Nevertheless, it is somewhat satisfactory to observe the emphasis with which assurance is given "that the United States Government may rely upon the loyal fulfillment of the obligations imposed (by the decision of the Tribunal of Arbitration at Paris) upon this country.

It is difficult to see why recourse was to be had by Her Majesty's Government to "expert advisers" in regard to concluding a convention for the formal and explicit acceptance by both nations of the determination of a tribunal to which in advance and by formal treaty they had mutually pledged their faith and covenanted to procure the adhesion of the other powers.

If, however, an efficient and plenary execution of the Paris award and the regulations as determined and established for the control of



fur-seal hunting in the North Pacific and Bering Sea can be obtained by cooperative statutes, the desired end will have been attained, and I sincerely trust the draft of legislative enactments which Lord Rosebery states went forward ten days ago to Washington may prove satisfactory and competent for the end in view.

For your possible convenience, I inclose copies of the imperial act\* of 1893, referred to in Lord Rosebery's note, which remains in force till July, 1895, and draw your attention to certain provisions which I have marked in relation to wide powers bestowed upon the Queen in council.

Just so soon as it is practicable I propose to address a note to the new secretary of state for foreign affairs, in order that the averments of intention "to give prompt effect to the regulations framed by the tribunal," contained in Lord Rosebery's note, may not lack a corresponding agreement on the part of the United States, and the substance of a treaty may thus be framed for future use and reference.

I have, etc.,

T. F. BAYARD.

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[Inclosure 1.]

*Lord Rosebery to Mr. Bayard.*

FOREIGN OFFICE, *March 2, 1894.*

YOUR EXCELLENCY: Her Majesty's Government have given due weight to the considerations urged by your excellency at our interview on the 26th ultimo, in support of the proposal of the United States Government that a convention should be concluded at once between Great Britain and the United States for the purpose of giving effect, as soon as possible, to the award of the Tribunal of Arbitration as regards the regulations therein prescribed and applicable to the high seas.

They have also given careful attention to your excellency's note of the 23d instant, which you placed in my hands in the course of our interview.

In that note the disappointment of the United States is expressed at the unexpected and regrettable delay which has occurred in coming to an agreement as to the best means of giving effect to the award.

At the risk of repeating what I said to your excellency on that occasion, I desire to record my emphatic assurance that there is no wish on the part of Her Majesty's Government to evade the decisions or to disregard the recommendations of the arbitrators, and that the United States Government may rely on the loyal fulfillment of the obligations thereby imposed on this country.

Considerable delay has, no doubt, occurred, but on the part of Her Majesty's Government it has been caused by the repeated references which, in view of the magnitude of the Canadian interests involved, it has been incumbent on Her Majesty's Government to make to the Dominion Government.

The first object of both powers is to give prompt effect to the regulations framed by the tribunal. The principal end of these regulations is to control the operations of pelagic sealers on the high seas. The new sealing season is rapidly approaching, and Her Majesty's Government concur with the Government of the United States that unless some steps be taken at once, there is risk that the objects of the award may, during the present year, be defeated, a result which would be equally deplored by both Governments.

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\* See Senate Ex. Doc. No. 67, Fifty-third Congress, third session, page 61.

The proposal of your Government is to proceed by a convention. This suggestion has been carefully considered by her Majesty's Government in communication with their expert advisers. They do not, however, find themselves able to share the views expressed in Mr. Gresham's note to Sir Julian Pauncefote, of the 24th January, as to the advantage of this mode of proceeding.

I need not trouble your excellency at length with the reasons on which their conclusion is based, as I have instructed Sir Julian Pauncefote to communicate them confidentially to Mr. Gresham; but I may mention that Her Majesty's Government have no power to put into force by order in council, as your excellency thought possible, the provisions of a convention such as is proposed by Mr. Gresham. Their powers in that respect regarding the fur-seal fisheries are limited to those conferred by the imperial act of 1893 (North Pacific seal fisheries act, 1893), which remains in force till July, 1895. For carrying out the award of the tribunal fresh legislative enactments, will, in any case, be required. A bill for that purpose has, as I informed your excellency, been prepared, and I forwarded it to Her Majesty's ambassador at Washington by the mail of the 24th ultimo, and I have instructed his excellency to communicate it confidentially to Mr. Gresham, and to explain and discuss with him the course which Her Majesty's Government think most advisable under the circumstances.

I have, etc.,

ROSEBERY.

*Mr. Gresham to Mr. White.*

DEPARTMENT OF STATE,  
*Washington, March 9, 1894.*

SIR: I have to acknowledge the receipt of your dispatch of January 10, last, reporting that the imperial foreign office desired to know whether the Government of the United States would be disposed to entertain proposals for a *modus vivendi* as regards the North Pacific seal fisheries, similar to that now existing between Russia and Great Britain.

A reply has been unavoidably delayed by the failure thus far of the British Government to commence negotiations for the enforcement of the award of the Paris Tribunal of Arbitration. That award constitutes a valid obligation on the contracting parties, and every effort is being made by this Government to give it speedy effect in all its parts.

The award contemplates that the United States and Great Britain shall extend joint invitations to other powers to give their adhesion to such measures as may be agreed upon for the enforcement of the reported regulations, and the cordial character of the proposal of Russia plainly indicates that the adhesion of that Government will not be difficult to obtain.

I am, etc.,

W. Q. GRESHAM.

*Mr. Gresham to Mr. Bayard.*

[Telegram.]

WASHINGTON, *March 17, 1894.*

Great Britain still objects to a convention, and insists that award can be enforced by legislation. The President thinks convention necessary. The British ambassador suggested, a week ago, continuance of *modus vivendi* for another year. I replied the *modus* was only applicable to Bering Sea and suggested its renewal for another year, so enlarged, however, as to protect all the waters embraced in the second regulation, thus affording time for a treaty between United States, Great Britain, Russia, and Japan. The ambassador said he would telegraph this suggestion to his Government. To-day he informed me Great Britain did not favor such a *modus*, and I suggested a renewal of the existing *modus* for twelve months, with an added clause protecting the waters in the North Pacific embraced in the second regulation only during the months of May, June, and July, assuring the ambassador this Government could agree to nothing less.

The ambassador said it would be difficult to give notice to sealers which had already left their home ports, and it would be harsh to seize them without notice. I replied such sealers had left with knowledge of the award, and that both Governments were bound to enforce the regulations, and therefore contemplating that the regulations would be enforced; and that we would see to giving our sealers notice, asking no immunity for them, and Great Britain could do the same. The ambassador said he would telegraph at once my last offer to his Government.

But little time remains for concurrent action contemplated by the award. This Government is not responsible for the delay, and if Great Britain declines the last offer of a temporary agreement, the situation will become embarrassing for both Governments.



*Mr. Gresham to Mr. Bayard.*

DEPARTMENT OF STATE,  
Washington, March 17, 1894.

SIR: The British ambassador called at the State Department about noon on the 7th instant and informed me that he had received from his Government a draft of a bill to be introduced into Parliament for putting into force the Bering Sea award, and other papers which he desired to submit for my inspection before a formal interview. I informed him I was ready for the interview whenever it would suit his convenience; that I knew of nothing so important as the Bering Sea award, and the sooner we reached an agreement for making it effective the better it would be for both Governments. Sir Julian stated that at 3 o'clock the next day he would be ready for an interview, at which hour he again arrived at the Department and for the first time handed me the draft. I informed him that I would examine it as speedily as possible, and after conferring with the President I would be ready for another interview, which we agreed should be on the 10th at 11 p. m. Sir Julian appeared at the appointed time, and I called his attention to the following defects in the draft submitted:

Paragraph 1 of section 1 declares that the reported regulations shall have effect as if they were set out in the act, and paragraph 2 declares that any person violating the act shall be deemed guilty of a misdemeanor within the meaning of the merchants' shipping act of 1854, and the ship employed in such contravention, and her equipment and everything on board thereof, shall be liable to be forfeited as if the offense had been committed under another act, "*Provided, That the court, without prejudice to any other power, may release the ship, equipment, or thing, on payment of a fine not exceeding five hundred pounds.*" The penalty prescribed in the shipping act for a misdemeanor is a fine not exceeding 100 pounds.

The court is thus given discretion to punish offenders with nominal fines and release ships employed in contravention of the act on payment of like fines.

Paragraph 3 declares that certain sections of British acts shall apply as if they were expressly recited and in terms made applicable to the act, "and any commissioned officer on full pay in the naval service of Her Majesty the Queen may seize the ship's certificate of registry." Neither in this nor other sections of the draft is it made the duty of British officers to arrest offending persons and ships.

Paragraph 2 of Section VII reads:

Where, on any proceeding against a person or ship in respect of any offense under this act, it is proved that the ship sailed from its port of departure before the scheduled provisions were published there, and that such person or the master of the ship did not subsequently and before such alleged offense receive notice of those provisions, such person shall be acquitted and the ship shall be released and not forfeited.

This paragraph is plainly intended to protect Canadian sealers which have already left Victoria to hunt seals in violation of the regulations. Should the bill become a law and a Canadian ship be caught any time taking seals in the waters described in the first regulation, or the waters described in the second regulation, during the months of May, June, and July, it could not be forfeited if it sailed from its port of departure before the scheduled provisions were published at that port and the master did not receive notice of the regulations before the offense was committed. The owners and masters of Canadian sealing

schooners or ships were all familiar with the treaty and award of the Paris Tribunal before the ships left their home ports for this season. They knew it was the duty of both Governments to enforce the regulations and protect the inhibited waters; they were bound to contemplate that both Governments would do what the treaty and the award obliged them to do, and they are not, therefore, entitled to the protection contemplated by the seventh section of the draft.

Having urged these objections to the bill, I again informed Sir Julian that a convention such as I had proposed was in the strict line of what the award called for, and that I would like to know what objection his Government had to proceeding in that way. He replied that his Government did not think a convention was necessary; that it was opposed to a convention; that legislation would accomplish all that was needed, and that if a convention should be agreed upon, it would not be operative in his country without Parliamentary action. I replied that a convention would have the force of law in this country, and that I presumed Parliament could speedily give it such force in England. Sir Julian said he had suggested to Lord Rosebery that, owing to the lapse of time and the near approach of the inhibited season (he would not say whether Canada or London was to blame), it would be well for the two Governments to renew the *modus vivendi* for another year.

I replied that this would not protect the waters of the North Pacific embraced in the second regulation, that the *modus* was applicable only to the waters of Bering Sea, and asked Sir Julian if he was in favor of extending the existing *modus* for twelve months so as to embrace all the waters included in the second regulation. He replied that he did not think his Government was willing to go so far; that his idea was simply to close the Bering Sea for another year, leaving the waters of the North Pacific, south of the Aleutian Islands, free, as heretofore, thus giving more time to reach an agreement for the enforcement of the award. I informed the ambassador that this Government was not responsible for the failure thus far to put into force the award, including the regulations; that I would agree to nothing looking to a departure from the award; that I would entertain a proposition for a *modus vivendi* on the basis of the first and second regulations, to be operative for twelve months, during which time a treaty might be entered into between the United States, Great Britain, Russia, and Japan, settling the entire sealing question. Sir Julian seemed to think there was force in this suggestion, and said he would at once telegraph to London for authority to enter into such an agreement, which he has done, but has as yet received no reply.

Should an arrangement of this kind not be entered into, I fear we will soon be confronted with serious questions.

I am, etc.,

W. Q. GRESHAM.

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*Mr. Bayard to Mr. Gresham.*

[Telegram.]

LONDON, *March 19, 1894.*

Your instructions communicated to the Earl of Kimberley to-day and impressed upon him serious embarrassments which were threatened if your latest proposition to renew and extend operation of *modus*

(vivendi) shall not be accepted. It was readily agreed to between us that failure or delay in faithful execution of award would inflict disastrous blow to principle of arbitration, and I was again assured most emphatically of full intent of British Government to carry out their obligation. I again stated reasons for convention with supplementary legislation as best mode of complying with award. A bill for executing award ready for introduction here and only excluded last week unavoidably. Earl of Kimberley promised further information without delay.

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*Mr. White to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
*St. Petersburg, March 21, 1894. (Received April 7.)*

SIR: I have the honor to acknowledge the receipt of yours of March 9 last, in relation to an arrangement contemplated by the United States Government between the said Government, Great Britain, and possibly other powers, including Russia, and to say that I have this day advised the Imperial foreign office as to the main points of interest to Russia contained in your said dispatch.

I am, etc.,

ANDREW D. WHITE.

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*Mr. Gresham to Mr. Bayard.*

[Telegram.]

WASHINGTON, *March 22, 1894.*

Made this proposition to British ambassador yesterday:

Extend existing modus for one year, amended so as to include waters in North Pacific down to forty-second parallel for months May, June, July. If this is not accepted, and ambassador intimated to-day it would not be, it is believed Congress will pass a bill for enforcement of regulations this season on our part.

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*Mr. Gresham to Mr. White.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, March 24, 1894.*

United States will agree to prohibit their citizens from taking seals within 10 miles of Russian coast and within zone of 30 miles around Commander and Robbin islands until agreement is terminated by notice.



*Mr. Bayard to Mr. Gresham.*

[Telegram.]

LONDON, *March 27, 1894.*

At our interview to-day Lord Kimberley gave me a copy of latest proposed agreement between you and British ambassador at Washington as to close season north of 42°, commencing May. As the United States have every possible interest for immediate legislation to enforce award, I would accept Lord Kimberley's amendment suggesting that close season shall cease August 1 as to that power which has then prepared by its legislation to enforce award. Notice has been given last week of introduction of bill next Thursday in the House of Commons by the attorney-general, who drafted it; no opposition anticipated. Am satisfied Lord Kimberley is as anxious as ourselves to secure honorable execution of award.

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*Mr. Gresham to Mr. Bayard.*

[Telegram.]

WASHINGTON, *March 28, 1894.*

The President objects to stipulation proposed to be added by Lord Kimberley, as it implies a possible violation of agreement by United States. This Government can not consent to a modus which does not embrace paragraph 4 of proposition telegraphed by British ambassador. You can assure Lord Kimberley United States will enact legislation to enforce award on their part before August 1, and the President will not doubt Great Britain will do the same; but, if for any unexpected reason award should not be in force on that day, it is not desirable either party should have the right to denounce the treaty.

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*Mr. Gresham to Mr. White.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, March 28, 1894.*

United States will agree to prohibit their citizens hunting seal within 10 miles of Russian coasts and within zone of 30 miles around Commander and Robbin islands, annual catch on islands to be limited to 30,000; that Russian officers may seize offending American vessels, turning them over to United States for trial. Agreement to be terminated at will by either party on notice.

*Mr. Gresham to Prince Cantacuzene.*

DEPARTMENT OF STATE,  
Washington, March 28, 1894.

MY DEAR SIR: Referring to a communication of this morning, I inclose herewith for your information draft of a *modus vivendi* which the United States are willing to enter into with the Imperial Government of Russia for the protection of fur seals on the Russian side of the Bering Sea.

Very truly, yours,

W. Q. GRESHAM.

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[Inclosure.]

*Agreement between the Government of the United States and the Imperial Government of Russia for a modus vivendi in relation to the fur-seal fisheries in Behring Sea and the North Pacific Ocean.*

For the purpose of avoiding difficulties and disputes in regard to the taking of fur seal in the waters of Bering Sea and the North Pacific Ocean, and to aid in the preservation of seal life, the Government of the United States and the Imperial Government of Russia have entered into the following temporary agreement, with the understanding that it is not to create a precedent for the future, and that the contracting parties mutually reserve entire liberty to make choice hereafter of such measures as may be deemed best adapted for the protection of the fur-seal species, whether by means of prohibitive zones or by the complete prohibition of pelagic sealing, or by appropriate regulation of seal hunting in the high seas.

1. The Government of the United States will prohibit citizens of the United States from hunting fur seal within a zone of ten nautical miles along the Russian coasts of Bering Sea and of the North Pacific Ocean, as well as within a zone of thirty nautical miles around the Komandorsky (Commander) Islands and Tulienuw (Robbin) Island, and will promptly use its best efforts to ensure the observance of this prohibition by citizens and vessels of the United States.

2. Vessels of the United States engaged in hunting fur seal in the above-mentioned zones outside of the territorial waters of Russia may be seized and detained by the naval or other duly commissioned officers of Russia; but they shall be handed over as soon as practicable to the naval or other commissioned officers of the United States or to the nearest authorities thereof. In case of impediment or difficulty in so doing, the commander of the Russian cruiser may confine his action to seizing the ship's papers of the offending vessels in order to deliver them to a naval or other commissioned officer of the United States or to communicate them to the nearest authorities of the United States as soon as possible.

3. The Government of the United States agrees to cause to be tried by the ordinary courts, with all due guarantees of defense, such vessels of the United States as may be seized, or the ship's papers of which may be taken, as herein prescribed, by reason of their engaging in the hunting of fur seal within the prohibited zones outside of the territorial waters of Russia aforesaid.

4. The Imperial Russian Government will limit to 30,000 head the number of fur seal to be taken during the year 1894 on the coasts of Komandorsky (Commander) and Tulienuw (Robbin) islands.

5. The present agreement shall have no retroactive force as regards the seizure of any seal-hunting vessel of the United States by the naval or other commissioned officer of Russia prior to the conclusion hereof.

6. The present agreement being intended to serve the purpose of a mere provisional expedient to meet existing circumstances, may be terminated at will by either party upon giving notice to the other.

In witness whereof we, Walter Q. Gresham, Secretary of State of the United States, and Prince Cantacuzene, envoy extraordinary and minister plenipotentiary of His Majesty the Emperor of all the Russias, have, on behalf of our respective Governments, signed and sealed this agreement in duplicate and in the English and French languages, in the city of Washington, this       day       , 1894.

[SEAL.]  
[SEAL.]

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*Mr. Bayard to Mr. Gresham.*

[Telegram.]

LONDON, *March 29, 1894.*

Had an interview with minister for foreign affairs. Your instructions by cable communicated. Will reply as soon as possible.

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*Mr. Bayard to Mr. Gresham.*

[Telegram.]

LONDON, *March 30, 1894.*

A bill for executing award and regulations was introduced in the House of Commons by attorney-general yesterday; read for the first time; second reading next Monday. No opposition.

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*Mr. Bayard to Mr. Gresham.*

EMBASSY OF THE UNITED STATES,  
*London, March 30, 1894. (Received April 9.)*

SIR: I have the honor to acknowledge the receipt of your several telegrams of the 17th, 22d, and 28th instant, all in relation to the measures requisite for enforcing the Bering Sea award and regulations.

An interview with Lord Kimberley was instantly sought on the 29th instant, and promptly accorded at his residence, and was followed by a note from me which restated with precision and fullness all that had passed between us on that occasion in relation to the subject matter under consideration, a copy of which note is now herewith inclosed.



When we parted (about 2 p. m.) Lord Kimberley was immediately to meet Sir Charles Russell, the attorney-general, for consultation upon this subject; and, although I have not yet received a reply to my last note, yet the report of the proceedings in the House of Commons yesterday discloses the fact that the attorney-general had introduced the bill to enforce the award and regulations as established by the Tribunal of Arbitration, that it had been read the first time without opposition, and the second reading fixed for Monday next, and to this effect I have to-day telegraphed you.

I am entirely confident of the intention of this Government to live up to their agreement, and provide by law for the full and honorable execution of the decree of the arbitrators.

Under their constitutional arrangements—differing from those of the United States—a treaty has not the force of law, and legislative machinery is requisite to put their conventions in operative force.

Last autumn, and throughout the session, until the recess in March, the Irish home rule bill, and one or two other measures, domestic and political in their nature, completely blocked the way of other business, and excluded all other consideration.

Now and at last the path is clear, and I am not able to doubt that the measure introduced will speedily become the law, and, once under legal control, I believe all international friction will be at least minimized or put an end to in Bering Sea.

I have, etc.,

T. F. BAYARD.

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[Inclosure.]

*Mr. Bayard to Lord Kimberley.*

EMBASSY OF THE UNITED STATES,

*London, March 29, 1894.*

DEAR LORD KIMBERLEY: Referring to our conversation of this morning on the subject of enforcing the award of the Tribunal of Arbitration in the Bering Sea fur sealing case, I beg leave in this note to repeat what I then said.

I am this morning instructed by cable that the President is unable to consent to the emendation suggested by you to paragraph 4 of the Memorandum of Agreement between Sir Julian Pauncefote and Secretary Gresham, at Washington, for the reason that it implies a possibility of violation by the United States of the agreement and also of the stipulations of the convention of February, 1892, and of the award of the Tribunal of Arbitration at Paris. I am instructed to assure your Lordship that the United States Government will enact legislation to enforce the award completely, on its part, before the 1st of August next, and that the President entertains no doubt that Great Britain will equally do the same.

As stated by me in our last interview on this subject, it is the desire, and manifestly it is essential to the interests of the United States, that the results of the arbitration should be completely carried into effect, and without delay; and this has been urged in their behalf ever since the award was promulgated in August last.

The President has great satisfaction in believing that it is the equal purpose of both Governments to carry into effect and enforce the decrees of the Tribunal of Arbitration in letter and spirit; and he is not willing that the force of the treaty which created the arbitration,

or any of its results, should be weakened or departed from in any particular.

It was with this purpose that it was proposed by the United States in October last by a convention to accept at once and unqualifiedly the award of the tribunal, and the regulations determined and established by it for fur-seal fishing in the North Pacific Ocean and Bering Sea; but to this mode of action Her Majesty's Government demurred, and therefore they now desire, by cooperative legislation, and with the promptness necessitated by the circumstances of the case, to effectuate the same result.

Moreover, the welcome and hearty concurrence of your Lordship in the solicitude expressed by me that international resort to arbitration should not fail in completeness, nor its success in any degree be impaired, give great confidence that the arrangements as proposed by the two negotiators at Washington will be adopted.

Believe me, etc.,

T. F. BAYARD.

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*Mr. Gresham to Mr. White.*

DEPARTMENT OF STATE,  
*Washington, March 30, 1894.*

SIR: On the 9th instant I answered your dispatch of January 10th, in relation to the suggested Russian-American *modus vivendi* in regard to the fur-seal fisheries of the North Pacific, and pointed out the necessity of deferring a joint understanding, reciprocally applicable to the waters within the purview of the award of the Paris Tribunal of Arbitration, until the invitation contemplated in that award could be extended by the United States and Great Britain acting in concert.

Since then, as the result of conferences I have had with the Russian minister here, the way has been opened for the adoption of a more limited understanding with the Imperial Government.

I have given to Prince Cantacuzene a draft of a *modus vivendi*, a copy of which I inclose in order that you may submit it to the Russian Government for its information as to what the United States are willing to do in this relation.

It will be observed that the *modus vivendi* is not reciprocal in its application to the eastern waters of the North Pacific and Bering Sea. Our information is that Russian subjects have never taken seal on our side of those waters, and there is no reason to apprehend that they will do so now. For that reason, the United States exact nothing from Russia in the way of reciprocity, relying on the stipulated right to terminate the agreement at will, in the event of Russia permitting her subjects to poach in the waters embraced in the regulations of the Paris award.

My telegram of the 28th instant advised you of the essential features of the proposed *modus*.

I am, etc.,

W. Q. GRESHAM.

*Mr. Gresham to Mr. Bayard.*

[Telegram.]

WASHINGTON, *March 31, 1894.*

Proposition British Government communicated by British ambassador to-day not accepted. Delay on the part of Great Britain and apparent unwillingness to protect waters in first and second regulations against Canadian sealers this season have created some feeling of irritation in Congress. Think bill for full enforcement of award will pass Senate Monday and House in a few days thereafter.

*Mr. Bayard to Mr. Gresham.*

[Telegram.]

LONDON, *April 3, 1894.*

Long interview with the minister for foreign affairs yesterday, and pressed the necessity for prompt action. Bill as now published gives legislative force to all regulations of Paris Arbitration May 1. I consider it highly important that bill before Congress should strictly adhere to phraseology of regulations, and that measures of both Governments should be as nearly as possible identical. Comments of press of both parties favorable.

*Mr. White to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
St. Petersburg, *April 3, 1894.* (Received April 19.)

SIR: I inclose a copy of a note just received from the imperial minister of foreign affairs proposing a *modus vivendi* similar to that now in operation between Russia and Great Britain, which the Imperial Government understands from the recent telegram of the State Department to this legation that our own Government is ready to adopt.

It will be observed that the method of putting the proposed arrangement into force suggested by the imperial minister is very simple, and I may be allowed to suggest that, if our own Government take the same view, a brief dispatch by cable to me to that effect would be well received here by the Imperial Government as showing that we are ready to meet their views with promptness.

I am, etc.,

AND. D. WHITE.

[Inclosure.]

*Mr. Giers to Mr. White.*

MR. MINISTER: The Government of the United States of North America, having agreed to an arrangement concerning fur-seal fishing similar to the one which already exists between us and Great Britain, I consider it my duty to address you the present note on the subject, accompanied by the reservations which we have formulated toward England.



1. It is understood, in the first place, that the understanding established between our two Governments leaves unimpaired all the rights of Russia in its territorial waters.

2. In delivering to the authorities of the United States the American ships engaged in hunting fur seals in the prohibited waters, we do not in any way intend to prejudice the question of the rights of maritime power to extend its territorial jurisdiction in certain special cases beyond territorial waters properly so called.

3. The Imperial Government reserves its entire liberty as to the choice in the future between the two systems of protecting fur seals, either by means of a prohibited zone or by means of complete prohibition of pelagic hunting, or by regulating it on the high seas.

4. The present arrangement shall only be in force until further orders, will only have an essentially provisional character, and shall in no way be used as a precedent.

Under these reservations we consent to the following conditions:

1. The Government of the United States of North America shall forbid its subjects hunting fur seals within a zone of 10 nautical miles along all the Russian coasts of Bering Sea and the Northern Pacific Ocean as well as in a zone of 30 nautical miles around the Commandorski and Tiulenew islands (Robbin Island).

2. Ships belonging to subjects of the United States of North America occupied in fishing fur-seals in the above-mentioned zone outside of the territorial waters of Russia may be seized by Russian ships of war to be delivered over to ships of war of the United States or to the nearest American authorities. In case that this can not be done, or where there arises difficulty in doing so, the commander of the Russian ship may confine himself to seizing the ship's papers of the above-mentioned vessels to the end that they may be handed over to a ship of war of the United States or sent to the nearest American authorities at the earliest opportunity.

3. The Government of the United States agrees to have tried by the ordinary tribunals offering all necessary guarantees American ships which shall have been seized for fishing fur seal in the prohibited zones outside of Russian territorial waters.

4. The Imperial Government will limit the catch of fur seals on the coast of the Commandorski and Tiulenew (Robbin) islands to 30,000 head during the present year.

5. An agent of the Government of the United States may be allowed to land on the above-mentioned Commandorski and Tiulenew islands, so, as to collect from the local authorities all necessary information bearing on the working and results of the present agreement, but the local authorities shall be previously informed of the date of his visit which shall not be for a greater length of time than a few weeks.

6. The present agreement shall have no retrospective force as to the seizure of American vessels which may have been previously seized by ships of the imperial navy.

The above-mentioned points being based exactly on the texts of our arrangements with Great Britain to which the Government of the United States of North America has already adhered, we do not doubt that the latter will accept it (i. e., the present agreement). A simple acknowledgement conveying the formal acceptance by your Government would be sufficient in our eyes to establish that the agreement between the two Governments concerning fur-seal fishing is provisionally agreed upon until further order.

Please accept, etc.,

GIER.

*Mr. Bayard to Mr. Gresham.*

EMBASSY OF THE UNITED STATES,

*London, April 4, 1894. (Received April 13.)*

SIR: I had the honor to address you under date of 30th ultimo, and now inclose copies of your telegram of March 31 and of my telegraphic reply to the same of the 3d instant, both relating to the proposed enforcement of the Bering Sea regulations.

The sentence of your above telegram, "Proposition British Government communicated by British ambassador to-day not accepted," was not quite clear to me in its meaning, nor was I able in my interview of April 2 with Lord Kimberley to obtain from him an entirely satisfactory explanation.

The action of this Government, however, in fixing May 1 as the date for the operation of the new law for enforcing the fur-sealing regulations, would appear to make unnecessary any ad interim arrangement.

I have the honor to inclose copies of the proposed British act\* as published here yesterday, and which (as I was informed) was telegraphed verbatim to the United States, with the purpose probably of procuring identity of legislative expression.

Lord Kimberley showed me a copy of the bill introduced by Mr. McCreary in the House of Representatives and referred to the Committee on Foreign Relations, which copy had been much interlined and amended, and as it did not accurately follow the phraseology of the regulations, as "determined and established" by the Tribunal of Arbitration at Paris, I drew your attention in my last telegram to what I conceive to be of great importance—that we should incorporate and adopt in our law to enforce these regulations the full and precise language employed by the arbitrators.

The more I consider the logical and necessary results of a complete enforcement of these regulations as decreed, the more plainly does it appear to me that profitable pelagic fur-seal fishing is inconsistent therewith.

This, of course, is equally obvious to the British-American sealers, and the strain upon their sense of honorable obligation and legal duty may be estimated by expressions in the parliament at Ottawa, and the departure of there sealing vessels with full knowledge of the regulations of the arbitration and the pendency of legislation to penalize their breach.

The telegraphic reports announce the passage, yesterday, of the bill in the Senate, and I suppose speedy action will similarly follow in the House of Representatives.

I have, etc.,

T. F. BAYARD.

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\* See Senate Ex. Doc. No. 67, Fifty-third Congress, third session, page 83.

*Mr. Gresham to Mr. Bayard.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, April 4, 1894.

Bill which passed Senate yesterday contains nothing but provisions for enforcement of regulations. House committee unanimously instructed its chairman to move suspension of rules and pass bill immediately. At all events, bill will be a law this week.

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*Mr. Gresham to Mr. Bayard.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, April 5, 1894.

Bill for enforcing Bering Sea award has passed both Houses.

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*Sir Julian Pauncefote to Mr. Gresham.*

WASHINGTON, April 5, 1894.

SIR: On the 8th ultimo I had the honor to place in your hands confidentially, by desire of Her Majesty's principal secretary of state for foreign affairs, a draft of a bill which Her Majesty's Government proposed to introduce into Parliament to give effect to the fur-seal fishery regulations prescribed by the award of the Bering Sea Tribunal of Arbitration. Since that date negotiations have been proceeding with reference, first, to the adoption of a *modus vivendi* during the present year in order to give longer time to elaborate and complete the necessary legislation in both countries; secondly, to the settlement of the Bering Sea claims which were laid before the Tribunal of Arbitration; and thirdly, to a proposed conference of the four powers mostly interested in the fur-seal fishery to consider what regulations, applicable not only on the high seas but within the sovereignty of each power, it might be expedient to adopt in accordance with the first declaration appended to the award.

Those negotiations continued up to the 2d instant, when you informed me that the President had arrived at the conclusion that it would be better to abandon the proposed *modus vivendi*, as he now believed that both Governments would be able to complete their legislation before the commencement of the close season prescribed by the award, namely the 1st of May: you added that a bill would be pressed through Congress at once for that purpose. I accordingly informed the Earl of Kimberley of the President's views and I learned that the British legislation is proceeding with the utmost rapidity with a view to its coming into force on the 1st of May.



I have now received instructions from Lord Kimberley to propose to you that we should at once proceed to discuss the best mode of carrying out articles 4 and 7 of the regulations prescribed by the award.

A delegate from Canada, as previously arranged, is prepared to come to Washington to assist me in the discussion of the details in question, which are now very pressing, and as to which it is manifestly desirable that the two Governments should secure as much similarity of treatment as possible.

I should be much obliged therefore if you would kindly inform me whether this proposal is agreeable to you, and if so on what date it will be convenient to you to hold our first meeting.

I have, etc.,

JULIAN PAUNCEFOTE.

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*Mr. Bayard to Mr. Gresham.*

[Telegram.]

LONDON, April 6, 1894.

Everything indicates early passage bill to enforce award. Please send copies United States statutes upon the subject.

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*Mr. Bayard to Mr. Gresham.*

EMBASSY OF THE UNITED STATES,  
London, April 6, 1894. (Received April 16.)

SIR: Referring to my dispatch of the 4th instant, I have now the honor to acknowledge your telegram of the 5th (which was delivered to-day), relating to the legislative enforcement of the Bering Sea award.

In connection with the subject, I inclose the copy of the note I received from Lord Kimberley on the night of the 4th instant and of my reply on the day following.

The indications now are that the measure will be acted on on Monday next, and probably with no further opposition, although they are awaiting "points" expecting to be made by the Canadian government, whose efforts in the matter would not seem to be dictated by any strong desire to carry out the obligations under which the arbitration came into being.

I have, etc.,

T. F. BAYARD.

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[Inclosure 1.]

*Lord Kimberley to Mr. Bayard.*

FOREIGN OFFICE, April 4, 1894.

DEAR MR. BAYARD: I find from an interchange of telegrams with Sir Julian Pauncefote that he misled me as to the amendments in the United States bill for carrying out the Bering Sea award, to which I referred at my interview with you on the 2d instant.

I inclose for your information the United States bill as I understand it now to stand passed, and I also send you a copy of our bill as to-day amended.

You will see that in section 2, paragraph (1), one of the "mays" to which you objected has been taken out and a "shall" has been substituted with other words, and an amendment has been inserted in section 3, paragraph (3).

Believe, me, etc.,

KIMBERLEY.

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[Inclosure 2.]

*Mr. Bayard to Lord Kimberley.*

EMBASSY OF THE UNITED STATES,  
*London, April 5, 1894.*

DEAR LORD KIMBERLEY: Let me thank you for your note of last night, and the copies of the British measure, and that of the United States, to put in operative force the regulations determined and established by the Paris Tribunal of Arbitration.

I have just been informed by my Government of the passage by the Senate, on the day before yesterday, of a bill for the plenary enforcement of these regulations, and that the bill will, by the concurrence of the House of Representatives, become a law before this week expires.

From such examination as I have been enabled to bestow, since your kindness permitted me to compare the provisions of the proposed measures of the respective Governments, I am disposed to believe that these two measures will, when carried out in that good faith which has animated both the high contracting parties in this important transaction, secure full and faithful compliance with the award of the Tribunal of Arbitration.

Of course time is now the essence of the transaction, as the sealing season has already opened and the proposed close season is but three weeks off, so that every opportunity for friction or misapprehension should be carefully guarded against.

Let us hope the legislative action of the two Governments will proceed *pari passu*, and with that promptitude and absence of delay which should accompany the abitrament to its close.

Believe me, etc.,

T. F. BAYARD.

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*Sir Julian Pauncefote to Mr. Gresham.*

WASHINGTON, April 9, 1894.

DEAR MR. GRESHAM: With reference to our conversation of this morning respecting section 7 of the British act to give effect to the Bering Sea award, I have much pleasure in informing you that I have just received a telegram from the Earl of Kimberley which will, I trust, remove all misapprehension as to the meaning and effect of that provision.

Lord Kimberley desires me to give you the assurance that the clause in question will not prevent the seizure of British sealers violating the regulations of the award, and that the question of notice will only arise at the trial. In fact such sealers will be dealt with by the British

cruisers as if they had received notice of the regulations, and it will be left to the court to decide the question of notice as affecting only the liability of the defendants to penalties. I am to add that the instructions to the British cruisers will be explicit in the above sense.

I remain, etc.,

JULIAN PAUNCEFOTE.

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*Mr. Gresham to Mr. Bayard.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, April 9, 1894.

Omitting the preamble in which the reported regulations are set out literally, the following is the bill to give effect to the award of the Paris Tribunal as passed and approved:

That no citizen of the United States, or person owing the duty of obedience to the laws or the treaties of the United States, nor any person belonging to or on board of a vessel of the United States, shall kill, capture, or pursue, at any time, or in any manner whatever, outside of territorial waters, any fur seal in the waters surrounding Pribilof Islands within a zone of sixty geographical miles (sixty to a degree of latitude) around said islands, exclusive of the territorial waters.

SEC. 2. That no citizen of the United States, or person above described in section one of this act, nor any person belonging to or on board of a vessel of the United States, shall kill, capture, or pursue, in any manner whatever, during the season extending from the first day of May to the thirty-first day of July, both inclusive, in each year, any fur seal on the high seas outside of the zone mentioned in section one and in that part of the Pacific Ocean, including Behring Sea, which is situated to the north of the thirty-fifth degree of north latitude and to the east of the one hundred and eightieth degree of longitude from Greenwich until it strikes the water boundary described in article one of the treaty of eighteen hundred and sixty-seven, between the United States and Russia, and following that line up to Behring Straits.

SEC. 3. No citizen of the United States or person above described, in the first section of this Act, shall, during the period and in the waters in which by section two of this Act the killing of fur-seals is not prohibited, use or employ any vessel, nor shall any vessel of the United States be used or employed, in carrying on or taking part in fur-seal fishing operations, other than a sailing vessel propelled by sails exclusively, and such canoes or undecked boats, propelled by paddles, oars, or sails as may belong to, and be used in connection with, such sailing vessel; nor shall any sailing vessel carry on or take part in such operations without a special license obtained from the Government for that purpose, and without carrying a distinctive flag prescribed by the Government for the same purpose.

SEC. 4. That every master of a vessel licensed under this act to engage in fur-seal fishing operations shall accurately enter in his official log book the date and place of every such operation, and also the number and sex of the seals captured each day; and on coming into port, and before landing cargo, the master shall verify, on oath, such official log book as containing a full and true statement of the number and character of his fur-seal fishing operations, including the number and sex of seals captured; and for any false statement willfully made by a person so licensed by the United States in this behalf he shall be subject to the penalties of perjury; and any seal skins found in excess of the statement in the official log book shall be forfeited to the United States.

SEC. 5. That no person or vessel engaging in fur-seal fishing operations under this Act shall use or employ in any such operations, any net, firearm, airgun, or explosive: *Provided however*, That this prohibition shall not apply to the use of shotguns in such operations outside of Behring Sea during the season when the killing of fur seals is not there prohibited by this Act.

SEC. 6. That the foregoing sections of this act shall not apply to Indians dwelling on the coast of the United States, and taking fur seals in canoes or undecked boats propelled wholly by paddles, oars, or sails, and not transported by or used in connection with other vessels, or manned by more than five persons, in the manner heretofore practiced by the said Indians: *Provided, however*, That the exception



made in this section shall not apply to Indians in the employment of other persons, or who shall kill, capture, or pursue fur seals outside of territorial waters under contract to deliver the skins to other persons, nor to the waters of Behring Sea or of the passes between the Aleutian Islands.

SEC. 7. That the President shall have power to make regulations respecting the special license and the distinctive flag mentioned in this Act and regulations otherwise suitable to secure the due execution of the provisions of this act, and from time to time to add to, modify, amend, or revoke such regulations, as in his judgment may seem expedient.

SEC. 8. That, except in the case of a master making a false statement under oath in violation of the provisions of the fourth section of this Act, every person guilty of a violation of the provisions of this Act, or of the regulations made thereunder, shall for each offense be fined not less than two hundred dollars, or imprisoned not more than six months, or both; and all vessels, their tackle, apparel, furniture, and cargo, at any time used or employed in violation of this Act, or of the regulations made thereunder, shall be forfeited to the United States.

SEC. 9. That any violation of this Act, or of the regulations made thereunder, may be prosecuted either in the district court of Alaska or in any district court of the United States in California, Oregon, or Washington.

SEC. 10. That if any unlicensed vessel of the United States shall be found within the waters to which this Act applies, and at a time when the killing of fur seals is by this Act there prohibited, having on board seal skins or bodies of seals, or apparatus or implements suitable for killing or taking seals; or if any licensed vessel shall be found in the waters to which this Act applies, having on board apparatus or implements suitable for taking seals, but forbidden then and there to be used, it shall be presumed that the vessel in the one case and the apparatus or implements in the other was or were used in violation of this Act until it is otherwise sufficiently proved.

SEC. 11. That it shall be the duty of the President to cause a sufficient naval force to cruise in the waters to which this Act is applicable to enforce its provisions, and it shall be the duty of the commanding officer of any vessel belonging to the naval or revenue service of the United States, when so instructed by the President, to seize and arrest all vessels of the United States found by him to be engaged, used, or employed in the waters last aforesaid in violation of any of the prohibitions of this Act, or of any regulations made thereunder, and to take the same, with all persons on board thereof, to the most convenient port in any district of the United States mentioned in this Act, there to be dealt with according to law.

SEC. 12. That any vessel or citizen of the United States, or person described in the first section of this Act, offending against the prohibitions of this Act or the regulations thereunder, may be seized and detained by the naval or other duly commissioned officers of Her Majesty the Queen of Great Britain, but when so seized and detained they shall be delivered as soon as practicable, with any witnesses and proofs on board, to any naval or revenue officer or other authorities of the United States, whose courts alone shall have jurisdiction to try the offense and impose the penalties for the same: *Provided, however,* That British officers shall arrest and detain vessels and persons as in this section specified only after, by appropriate legislation, Great Britain shall have authorized officers of the United States duly commissioned and instructed by the President to that end to arrest, detain, and deliver to the authorities of Great Britain vessels and subjects of that Government offending against statutes or regulations of Great Britain enacted or made to enforce the award of the treaty mentioned in the title of this Act.

Approved, April 6, 1894.

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*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, April 10, 1894.

EXCELLENCY: Owing to illness, from which I have not fully recovered, I shall at this time content myself with a partial reply to your note of the 5th instant.

It was after Her Majesty's Government had refused its assent to one or more offers of this Government to enter into a *modus vivendi* (the

terms of which seemed not unfair to you) for the protection for one year of the waters described in the first and second regulations reported by the Tribunal of Arbitration, thus affording the two Governments more time for the enforcement of the award by appropriate legislation or otherwise, that I informed you on the 2d instant the President, in view of the near approach of the close season, had arrived at the conclusion that negotiations for a temporary agreement had better be abandoned and our efforts directed to obtaining the requisite legislation before the first of May.

I also informed you at the same time of my confident belief that a bill fully satisfying the requirements of the award on the part of the United States would speedily pass Congress, and that the President would not permit himself to doubt Her Majesty's Government would be equally prompt in obtaining similar legislation from Parliament.

The bill, a copy of which I inclose herewith, passed the Senate on the 3d instant, the House of Representatives two days later, and on the 6th instant was approved by the President.\*

Her Majesty's Government will not fail to see in its provisions evidence of an earnest desire and fixed determination on the part of this Government to observe and enforce the treaty and award in letter and spirit, and I need hardly say the President heard with satisfaction your assurance that British legislation of a similar character was proceeding with the utmost rapidity, with the view of having it in force before the beginning of the close season. In this connection I venture to repeat some of the observations which I made in one of our interviews a few days after you unofficially placed in my hands, on the 8th ultimo, a draft of a bill which you informed me Her Majesty's Government proposed to introduce into Parliament to give effect to the Paris award.

After providing that the regulations shall have the same force and effect as if therein set out, the first section declares that any person violating its provisions shall be deemed guilty of a misdemeanor within the meaning of the merchant's shipping act of 1854, and the ship employed in such contravention, and her equipment, and everything on board thereof, shall be liable to be forfeited as if the offense had been committed under another merchant act, "provided that the court, without prejudice to any other power, may release the ship, equipment, or thing on payment of a fine not exceeding five hundred pounds." The penalty prescribed in the shipping act for a misdemeanor is a fine not exceeding one hundred pounds.

Should this bill become a law, the court will have discretion to punish offenders with nominal fines, and release ships employed in contravention of the act on payment of like fine. In the opinion of this Government these penalties are not sufficiently severe to deter lawless men from trespassing upon the inhabited waters, and you will observe that the act of Congress referred to provides for the absolute forfeiture of ships employed in taking or hunting seals in violation of the award.

In reply to my statement that, while the draft authorized any commissioned officer on full pay in the naval service of Her Majesty to seize offending ships, it nowhere made it the duty of such officers to do so. You stated that, although you did not think the draft was fairly open to this objection, orders in council and instructions which would be issued to the proper officers would impose that duty upon them.

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\* See page 168.



## Subsection 2 of section 7 reads:

Where, on any proceeding against a person or ship in respect of any offense under this act, it is proved that the ship sailed from its port of departure before the scheduled provisions were published there, and that such person, or the master of the ship, did not subsequently and before such alleged offense receive notice of these provisions, such person shall be acquitted and the ship shall be released and not forfeited.

This provision is doubtless intended to protect against loss Canadians who may engage in sealing in the inhibited waters during the approaching close season, and when I informed you it was for that reason disappointing to this Government, you stated that it would be unfair to forfeit ships for violating a law which their owners and masters did not know was in force, and that you thought each Government was at liberty to enact such legislation as in its judgment would fully execute the award. I replied that when the Canadian sealers left their home ports their masters were not ignorant of the provisions of the treaty and the award; that they then knew both Governments were bound to adopt measures for the enforcement of the regulations before the first of May; that they no doubt departed contemplating this would be done; that this Government would provide no immunity for its citizens during the approaching close season, and that Her Majesty's Government should seek none for her subjects. I remarked further that the two Governments were alike bound to give effect to the award; that each was interested in the means employed by the other for that purpose, and you expressed, as you had on former occasions, the gratifying assurance that Great Britain would not fail to enact a law for due and timely execution of both the treaty and the award.

In your note you say you are instructed by Lord Kimberley to propose that we at once proceed to discuss the best mode of carrying out articles 4 and 7 of the regulations prescribed by the award, and request that I name a day for that purpose, as you desire a Canadian shall come to Washington to assist in the details in question, which are now very pressing, and as to which it is manifestly desirable the two Governments should secure as much similarity of treatment as possible.

In reply to your request I am instructed by the President to suggest that the proposed negotiations can be entered upon to so much better advantage when the statutes of both Governments are before us, that it is advisable to postpone the conference until the bill now pending in Parliament has become a law, and its exact provisions have been ascertained.

I do not anticipate difficulty in then reaching an understanding alike satisfactory to both Governments upon any remaining questions growing out of the treaty and award or properly related to them.

I have the honor to be, with the highest consideration, Mr. Ambassador,

Your obedient servant,

W. Q. GRESHAM.

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*Mr. Bayard to Mr. Gresham.*

[Telegram.]

LONDON, April 10, 1894.

Yesterday I again impressed upon British minister for foreign affairs injustice and objectionable nature of provision requiring previous notice to sealing vessels. Last night in debate attorney-general said clause



had been entirely misunderstood in the United States, and declared imperial obligation was imposed on Great Britain, and if Canada should not consent still Imperial Government would loyally carry award into effect. Leaders of opposition join with Government in declaring honor of the country involved in carrying out award. The text of the act of Congress has been received.

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*Sir Julian Pauncefote to Mr. Gresham.*

BRITISH EMBASSY,  
*Washington, April 11, 1894.*

SIR: I have the honor to acknowledge the receipt of your note of yesterday's date and to express my regret at the cause which, as you inform me, prevents you from entering more fully at present into the subject of my note to you of the 5th instant.

I have acquainted my Government by telegram with the grounds on which the President suggests that the proposed discussion as to the best mode of carrying out the fourth and seventh articles of the Bering Sea award should be deferred.

I desire to take this opportunity of correcting a misapprehension which appears to have arisen as regards the abandonment of the proposals for a *modus vivendi*.

I have no recollection of Her Majesty's Government having refused to assent to any reasonable proposal on the subject.

They originally expressed their willingness to agree to a renewal for one year of the existing *modus vivendi*, which closes up the whole of Bering Sea, but your Government thought this proposal insufficient, and desired that the whole of the waters covered by the award should be similarly closed. Her Majesty's Government considered so great an extension of the present *modus vivendi* unnecessary, and, as the result of further negotiations, an arrangement was drawn up under which the close season of three months prescribed by the award (from May 1 to July 31) should be put in force under the existing legislation in both countries, as far south as the forty-second degree, that being the limit of the British statutory power, and no seals being found after the 1st of May below that degree. This was tantamount to the enforcement of the close season prescribed by the award. It was also provided that if the two powers should not have completed the necessary legislation before the 1st of August, the close season should continue for such further period as the powers should think necessary for that purpose.

The above *modus vivendi* (which was part of a larger arrangement embracing other matters) was accepted by both powers, but Her Majesty's Government, in order to obviate any future misunderstanding, desired to stipulate that if the British legislation should be completed by the 1st of August the seas should be open to British sealers whether, at that date, the legislation of the United States was complete or not.

This stipulation was objected to by the President on the ground, as I understood, that it implied a possible tardiness on the part of the United States Government in perfecting its legislation. I offered, therefore, to substitute a clause providing that the close season should continue, as regards the vessels, subjects, or citizens of either power, whose

legislation might not have been completed by that date, until such power should have carried out its obligations in that respect.

But these suggestions were of no avail, and on the 2d instant you informed me that the President had decided to abandon the *modus vivendi*, and to proceed with legislation to enforce the whole award.

I am unable, therefore, to concur in the statement at the commencement of your note that Her Majesty's Government refused their assent to one or more offers of your Government to enter into a *modus vivendi*.

At the same time I did not intend to complain of the action of your Government in abandoning the *modus vivendi*, as it has been found practicable by both powers to dispense with it by timely legislation.

Turning now to the objections stated in your note to certain provisions of the British bill to carry out the award, I beg leave to make the following observations:

As regards the penalties proposed by the bill, I remember your pointing out to me that they were less deterrent than those imposed by the legislation of the United States, which gave no discretion to the courts but enacted absolute forfeiture of the vessel for breach of the regulations and "minimum" fines. This led to an academic discussion on the system of "minimum" punishments, which, I observed, was not favored in British legislation. I certainly understood your remarks in the light of mere criticism and not of serious objection, as it must be assumed that the British courts would not do otherwise than impose adequate punishments.

As regards the objection to the phraseology of section 1, relating to the seizure of ships, I observed that in my opinion the word "may" would be construed as imperative, and that, in any case, the instructions to the naval officers would probably remove all doubt on the point.

As regards the seventh section, which relates to the question of notice to the sealers of the regulations having been put into force, I trust that the assurances contained in my semiofficial communication of the 9th instant will have disposed of the objection to that provision, as they were evidently based on a misapprehension of its meaning and effect.

I beg to thank you, in conclusion, for the copies of the United States act to give effect to the award, which are transmitted in your note.

I have, etc.,

JULIAN PAUNCEFOTE.

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*Mr. Gresham to Mr. Bayard.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, April 11, 1894.

Secretary of the Navy will need copy of British act before preparing his instructions. As soon as it passes you will please telegraph full text, or so much as corresponds with section 12 of our act.

*Mr. Bayard to Mr. Gresham.*

EMBASSY OF THE UNITED STATES,  
*London, April 11, 1894. (Received April 23.)*

SIR: The last dispatch I had the honor to address to you on the subject of the legislation to enforce the Bering Sea award and regulations was dated the 6th instant, and beg I leave now to inclose herewith a copy of a telegram I had the honor to send you on the same subject on the 10th instant.

Your telegram, transmitting the text of the act of Congress to enforce the award and regulations of the Paris Tribunal, commenced to reach me on Monday evening last and was completed that night, and I herewith inclose a full copy thereof.

I beg to draw your attention to the word "exclusive," in the last line of section 2, which purports to follow the phraseology of article 1 of the regulations, which, according to your telegram, are set out literally in the preamble to the act of Congress to enforce those regulations.

I presume "exclusive" is an error arising in the telegraphic transmission, and that in the text of the statute it is "inclusive," and in accordance with the regulations recited in the preamble.

While I have confidence that it is the full intention of this Government to carry out in equality of force and good faith the letter and spirit of their treaty stipulations, yet I have thought it best to supplement my personal conversation with Lord Kimberley by a note, which I have written him to-day, and a copy of which I herewith inclose.

I have, etc.,

T. F. BAYARD.

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[Inclosure.]

*Mr. Bayard to Lord Kimberley.*

APRIL 11, 1894.

DEAR LORD KIMBERLEY: The full text of the United States statute carrying into effect the award and regulations of the Tribunal of Arbitration at Paris has been telegraphed to me, and I find (that as I had supposed) no exemption from the penalties prescribed therein is made in favor of any vessel or citizen of the United States who may have departed on a sealing voyage in the North Pacific or Bering Sea at any time since the award of the tribunal was announced at Paris on August 15 last, without further notification of the measures to put the award and regulations into operation.

As I have heretofore had the honor to bring to the attention of your lordship, no individuals are entitled to so little consideration by either of the two Governments, and none assuredly should be more swiftly visited with punishment than those who, from the nature of their occupation, had the fullest knowledge, and means of knowledge, of the public and careful stipulations of the two Governments in their convention of February, 1892.

The expressions in debate by the attorney-general and of leading members on both sides of the House give me great confidence that the Government of Her Majesty will equally and explicitly enforce the



award, as that of the United States has already done, so that no pretext can be left for reflection upon the practice of arbitration or its unimpeachable execution in the present important case.

Believe me, etc.,

T. F. BAYARD.

*Sir Julian Pauncefote to Mr. Gresham.*

WASHINGTON, April 12, 1894.

DEAR MR. GRESHAM: With reference to my previous letter of the 5th instant respecting the meaning and effect of section 7 (2) of the bill now before Parliament in England, to carry out the Bering Sea award, I beg to inform you that I have received a telegram from the Earl of Kimberley in which he inquired whether you are aware that the publication of the schedule provisions mentioned in that clause means the publication of the provisions of the award and not the publication of the act of Parliament to give effect to them.

This further explanation will, I should think, dispose of all objections to the phraseology of the clause.

I am, etc.,

JULIAN PAUNCEFOTE.

[Inclosure.]

In clause 7, subclause 2, of the British bill the following phrase occurs:

"Where \* \* \* it is proved that the ship sailed from its port of departure before the scheduled provisions were published there," etc. The publication referred to is that of the provisions of the award, not that of the bill.

*Mr. Gresham to Mr. Bayard.*

[Telegram.]

WASHINGTON, April 13, 1894.

British ambassador informs me he has telegram from Earl of Kimberley saying the words "scheduled provisions," mentioned in seventh section of pending British bill, mean the regulations of the award, and not the act to give effect to them. Doubt is entertained here of the correctness of this interpretation. When Sir Julian gave me copy of the bill I informed him that I did not think the seventh section would meet the just expectations of this Government. He replied the award was not self-executing; that it had not been put in force, and it would be unfair to forfeit ships which left their home ports when the regulations were not in force. The British Government seems to have changed its position.

*Mr. Bayard to Mr. Gresham.*

EMBASSY OF THE UNITED STATES,  
*London, April 13, 1894. (Received April 23, 1894.)*

SIR: I have now the honor to acknowledge the receipt of your telegraphic instruction of to-day.

The inclosed report\* of the proceedings in the House of Lords yesterday will show you that the bill to put in operation the award and regulations of the Paris Tribunal of Arbitration, having passed the House of Commons, had its second reading in the Lords, and will, as I suppose, be finally acted upon by that body next Monday.

Their methods of legislative procedure are not in formal accord with those of Congress, and there is no reference whatever in the debate in either house to the suggested discrimination from forfeiture of the sealers, who have sought by anticipation to violate the regulations imposed by the tribunal (and to the obedience to which national faith was internationally and mutually pledged). I am unable to state the exact provisions of the measure.

I will at once telegraph you the text of the act when it has been finally acted upon, and meanwhile,

I have, etc.,

T. F. BAYARD.

*Mr. White to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
*St. Petersburg, April 16, 1894. (Received May 2.)*

SIR: I have the honor to acknowledge your instructions relative to the arrangement initiated between yourself and the Russian minister at Washington.

I have submitted the same to the foreign office here and find there a strong preference for their original proposal, namely, the adoption of the Russo-British *modus vivendi* by the United States and Russia, on the ground that this new form of proposal requires time for consideration by the various departments of the Russian Government interested, and therefore a delay, perhaps too long a delay, in notifying sealers would be necessitated.

I showed Count Kapnist, director of Asiatic affairs at the foreign office, with whom I had the interview, that the delays and difficulties in the matter had not been of our seeking, and gave him the reasons, as I conceive them, why you naturally desire the matter settled at Washington, as proposed in your dispatch above referred to.

I also showed him that with promptitude and expedition on the part of the Imperial Government very little delay would be caused, and I assured him that our Government simply desired a fair and speedy settlement of the question.

I am, etc.,

AND. D. WHITE.

\* Not printed.

[Note verbale.]

*Sir Julian Pauncefote to Mr. Gresham.*BRITISH EMBASSY,  
*Washington, April 17, 1894. (Received April 17, 1894.)*

The undersigned has the honor to inform the Secretary of State that he has received a telegram from the Earl of Kimberley to the effect that amendments have been made in articles 2 and 7 of the Bering Sea bill during its passage through the House of Lords which it is believed will entirely remove the objections raised by the United States Government.

As regards article 1, which relates to penalties, Lord Kimberley states that Her Majesty's Government have given their most careful consideration to the objections raised thereto.

The undersigned is instructed to assure the Secretary of State that Her Majesty's Government yield in no respect to the United States Government in their desire to carry out the award effectually, and they are satisfied that the provision in question is framed in the manner which will best secure that object.

JULIAN PAUNCEFOTE.

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*Mr. Gresham to Sir Julian Pauncefote.*DEPARTMENT OF STATE,  
*Washington, April 18, 1894.*

The Secretary of State has read with satisfaction the note verbale of the British ambassador of yesterday saying that he has received a telegram from the Earl of Kimberley to the effect that amendments have been made in articles 2 and 7 of the Bering Sea bill during its passage through the House of Lords which it is believed will entirely remove the objections raised by the United States Government; that Her Majesty's Government have given their most careful consideration to the objections raised by the United States to article 1 of the bill, and that he is instructed to assure the undersigned that Her Majesty's Government yield in no respect to the United States Government in their desire to carry out the award effectually, and they are satisfied the provision in question is framed in a manner which will best secure that object.

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*Mr. Gresham to Sir Julian Pauncefote.*DEPARTMENT OF STATE,  
*Washington, April 18, 1894.*

EXCELLENCY: There is a palpable error in the act of Congress entitled "An act to give effect to the award rendered by the Tribunal of Arbitration at Paris, under the treaty between the United States



and Great Britain, concluded at Washington February 29, 1892, for the purpose of submitting to arbitration certain questions concerning the preservation of the fur seals," approved April 6, 1894.

The first regulation or article of the award provides that fur seal shall not be pursued or captured at any time within a zone of 60 geographical miles around the Pribilof Islands "inclusive of the territorial waters," plainly meaning 60 miles from the shore and not 60 miles beyond the 3-mile limit. In describing the zone in the first section of the act, however, the word exclusive was used instead of inclusive.

While the mistake is regrettable it can lead to no embarrassment, as this Government construes section 1 as meaning precisely the same as article 1 of the award, and instructions to our naval commanders will be framed accordingly.

I have, etc.,

W. Q. GRESHAM.

*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, April 18, 1894.

The Secretary of State presents his compliments to his excellency the British ambassador, and has the honor to hand him herewith a list of the vessels which are to compose the United States naval force in Bering Sea during the coming season, which has been sent him by the Secretary of the Navy in compliance with the request made him by Sir Julian Pauncefote.

[Inclosure.]

U. S. S. *Mohican*, U. S. S. *Concord*, U. S. S. *Yorktown*, U. S. S. *Bennington*, U. S. S. *Ranger*, U. S. S. *Alert*, U. S. S. *Adams*, U. S. S. *Petrel*, U. S. S. *Albatross*, Revenue cutter *Bear*, Revenue cutter *Rush*, Revenue cutter *Corwin*.

*Mr. Bayard to Mr. Gresham.*

[Telegram.]

LONDON, April 18, 1894.

Act passed both houses; second section substitutes word "shall" for "may." Paragraph 3 of section 3 is verbatim: An order in council under this act may provide that such officers of the United States of America as are specified in the order may, in respect of offenses under this act, exercise the like powers under this act as may be exercised by a commissioned officer of Her Majesty in relation to a British ship and the equipment and certificate thereof, or such of those powers as appear to Her Majesty in council to be exercisable under the law of the United States of America against ships of the United States; and that such British officers as are specified in the order may exercise the powers conferred by this act, with any necessary modifications

specified in the order, in relation to a ship of the United States of America and the equipment and certificate thereof. Order in council, regulating seizure of British sealing vessels by United States officers, now in preparation by admiralty. Copy promised in a day or two.

Second paragraph of section 7 is verbatim: Where, on any proceeding in any court against a person or a ship in respect of any offense under this act, it is proved that the ship sailed from its port of departure before the provisions of the award, mentioned in the first schedule of this act, were known there, and that such person or the master of the ship did not, after such sailing and before the alleged offense, become aware of those provisions, such persons shall be acquitted, and the ship shall be released and not forfeited.

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*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,

*Washington, April 20, 1894.*

EXCELLENCY: I have had the honor to receive your note of the 11th instant, in response to mine of the 10th, relating partly to the inability of the two Governments to agree upon a reasonable and mutually satisfactory *modus vivendi* for the protection of seal life in Bering Sea and the North Pacific, and partly to certain details of the pending British bill to give effect to the award of the Paris Tribunal of Arbitration.

I note your expression of a desire to correct what you regard as a misapprehension touching the abandonment of the proposals for a *modus vivendi*, and your statement that you have no recollection of Her Majesty's Government having refused to assent to any reasonable proposal on the subject.

Now that the timely enactment by the United States of a statute to execute, on its part, the terms of the Paris award, and the adoption by Her Majesty's Government to the same end of legislation which I trust will be equally effective to give due force to the joint obligations of that award, have gone far toward removing the occasion for the proposed *modus vivendi*, consideration of the causes which led to the abandonment of negotiations for that object becomes retrospective and important only as affording a clearer appreciation of what has taken place. In this sense I understand your present statements, and am happy to contribute my share, so far as I may, to that desirable result.

Up to the time it was dropped, the negotiations for a *modus* had passed through various successive stages. Several proposals put forward by me, in conference, and which you regarded as reasonable and fair, when referred to your Government, were met by objections or counter proposals necessitating renewed efforts on our part to seek a basis for common agreement.

You will recall that on March 23, and in view of the dilatory causes which even then appeared to tend to defeat an agreement for the renewal of last year's *modus vivendi* with such amendment as was made necessary by the Paris award, I suggested that it might be better to cease efforts to reach a temporary understanding and proceed at once with all dispatch in obtaining needed legislation. Your instructions, communicated to me the same day, contemplated the continuance



of negotiations for a modus, coincidently with the adoption of concurrent legislation, and to this I consented, but not without misgivings as to the outcome. Under these circumstances we proceeded to draw up the arrangement of March 24, providing:

1. That Her Britannic Majesty's Government should establish and enforce the close season in the North Pacific, including Bering Sea, which is prescribed by the Paris award, viz, during the months of May, June, and July, but not further south than the forty-second parallel.

2. That similar steps should be taken by the United States Government, under the then existing act of Congress.

3. That the two Governments should proceed forthwith with the necessary legislation to carry out the whole of the award, and that such legislation should be put in force immediately on the expiration of the close season—that is to say, on the 1st of August.

4. That if, owing to any unexpected delay, such legislation should not be completed so as to be put in force on the 1st of August, the close season should continue for such further period as the two Governments might think necessary for effecting that purpose.

5. That, as soon as the necessary legislation for carrying out of the whole of the award should be completed, a convention should be entered into by the two powers for the settlement of the Bering Sea claims.

6. That the two powers should immediately invite Russia and Japan to negotiate with them a quadruple convention for the adoption of international regulations for the preservation of the fur-seal species, and applicable within the sovereignty of the four powers as well as on the high seas.

You will recall the importance I attached to the insertion of the fourth proviso of the foregoing proposal, and your acquiescence therein, in our conference on the morning of March 24. You then stated that you saw no objection to such a provision; indeed, you thought it would be fair, and you said you had reason to believe that Lord Kimberley would agree to it.

Upon this understanding you reduced the arrangement to writing, including my amendment, and the same afternoon, upon learning the President's acquiescence in its terms, you telegraphed its text to Lord Kimberley.

The proposal so accepted by us in the name of our respective Governments, and which we justly regarded as a final disposition of the matter, proved to be no exception to the general dilatory course of the negotiation theretofore, inasmuch as a day or two later you submitted a counter proposition on the part of Her Majesty's Government, modifying the essential terms suggested by me and which you had been pleased to regard as reasonable and fair. Your present note recites that counter proposition, being to the effect that "if the British legislation should be completed by the 1st of August the seas should be open to British sealers whether, at that date, the legislation of the United States were completed or not."

The President's objection to the counter proposition lay, not so much, as you understand, on the ground that it implied a possible tardiness on the part of the United States in perfecting their legislation (a needless, gratuitous implication, be it observed, in view of the interest no less than the good faith which prompted immediate legislation on our part) as because it was one-sided and tantamount to a rejection of the stipulation which I had advanced as indispensable.

Thereupon you brought forward another proposition similarly one-



sided, in that it provided for the continuance of the *modus* only as regards the vessels, subjects, or citizens of the power which might not by the 31st of July have carried out by legislation its obligations under the Paris award.

All efforts in this direction having so far proved abortive, my reasonable proposal of March 24 having been refused and the opening of the sealing season being close at hand, immediate action was forced upon the President, and I was directed by him to acquaint you with the purpose of the Government to proceed at once with legislation which, on its part, would fully meet the obligations of the Paris award. How abundantly able this Government was to carry out those obligations is shown by the passage through both Houses of Congress of the bill which was introduced in the Senate on April 2, and became a law by the President's approval only four days later.

The amended British bill for the enforcement of the Paris award, which this Government is pleased to learn has passed both Houses of Parliament, and the explicit and gratifying assurances of the course to be pursued by Her Majesty's Government, have allayed the apprehensions which I expressed to you touching the efficiency of the measure as it was originally prepared and submitted to this Government for its consideration.

I have, etc.,

W. Q. GRESHAM.

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*Mr. Bayard to Mr. Gresham.*

[Telegram.]

LONDON, April 21, 1894.

Draft of naval instructions forwarded by the dispatch bag to-day. Please send names of the United States vessels, and if possible their commanders, designated to police North Pacific Ocean and Bering Sea.

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• *Sir Julian Pauncefote to Mr. Gresham.*

WASHINGTON, April 23, 1894. (Received April 24, 1894.)

SIR: I have the honor to acknowledge the receipt of your note of the 20th instant, in which you are good enough to enter at some length into the reasons which led to the abandonment of the *modus vivendi* proposed on the 24th of March, and the acceptance of which by my Government was communicated to you on the 28th of that month.

I am unable to modify the views expressed in my note of the 11th instant, regarding the statement to which I ventured to take exception, namely, that it was after Her Majesty's Government had refused its assent to one or more offers of your Government to enter into a *modus vivendi* that the arrangement, which is set out at length in your note, was abandoned.

I have no desire to prolong the correspondence on this subject, but I think it my duty to point out that the stipulation made by my Govern-

ment in accepting the arrangement, that the close season should only continue as regards the subjects or citizens of the power whose legislation should not be completed before the 1st of August, was in no manner inconsistent with the substance or spirit of the arrangement, but was merely designed to meet a contingency which had been left unprovided for.

The Earl of Kimberley, in instructing me to make that stipulation, informed me that he had mentioned it to Mr. Bayard, who seemed to think it reasonable.

I regret that it should have been viewed by your Government in any other light, and that any difference of opinion should have arisen on this point, but it gives me pleasure to think that, owing to the liberal and conciliatory spirit in which our negotiations have been conducted on your side, they have given rise to so little disagreement.

I have the honor to be, etc.,

JULIAN PAUNCEFOTE.

*Mr. Uhl to Mr. Bayard.*

DEPARTMENT OF STATE,  
Washington, April 25, 1894.

SIR: I inclose herewith copy of communication<sup>1</sup> addressed by Secretary Herbert to the British ambassador at this capital on the 19th instant, giving a complete list of the officers who will have charge of our cruisers in Bering Sea and the North Pacific Ocean during the present season.

I am, etc.,

EDWIN F. UHL,  
Acting Secretary.

*Mr. Uhl to Mr. Bayard.*

DEPARTMENT OF STATE,  
Washington, April 25, 1894.

SIR: I inclose herewith copy of a letter of the 19th instant from the Acting Secretary of the Navy, covering an order issued to Commander C. E. Clark, United States Navy, who has been detailed to command a force of naval vessels and revenue cutters in Bering Sea.

I am, etc.,

EDWIN F. UHL,  
Acting Secretary.

[Inclosure.]

#### ORDER TO COMMANDER CLARK.

[Transmitted by the Navy Department April 19, 1894.]

NAVY DEPARTMENT,  
Washington, April 18, 1894.

SIR: 1. Having been detailed to command a force of naval vessels and revenue cutters to carry out the provisions of an act of Congress, approved April 6, 1894, "to give effect to the award rendered by the

<sup>1</sup> See Senate Ex. Doc. No. 67, Fifty-third Congress, third session, page 110.

Tribunal of Arbitration at Paris, under the treaty between the United States and Great Britain, concluded at Washington, February twenty-ninth, eighteen hundred and ninety-two, for the purpose of submitting to arbitration certain questions concerning the preservation of fur seals," and of the President's proclamation of the same, dated Washington, D. C., April 9, 1894, you will order the vessels under your command to warn all American and British vessels they may meet outside of the waters prohibited by this act not to enter these waters for the purpose of sealing during the periods of time in which fur-seal fishing is so prohibited, and you will deliver to the commanding officer of each vessel so warned a copy of the President's proclamation, of the British act, and of these instructions.

2. An entry, showing the notice of warning, shall be made upon the register of all vessels of the United States and Great Britain that have been warned.

3. In accordance with the provisions of the above-mentioned act, as appears by reference to section 1 thereof, fur-seal fishing is forbidden to the persons mentioned therein, and to all subjects of Great Britain, to persons owing the duty of obedience to the laws or the treaties of Great Britain, and to all persons belonging to or on board of a vessel of Great Britain, at any time or in any manner whatever, outside of territorial waters, in the waters surrounding the Pribilof Islands within a zone of 60 geographical miles thereof (60 to a degree of latitude) around said islands, *inclusive* of the territorial waters.

You will observe that the act of Congress extends the zone referred to in this paragraph 60 (geographical) miles around said islands, *exclusive* of the territorial waters, but you are hereby instructed to treat the limit as extending only 60 (geographical) miles around said islands, *inclusive* of the territorial waters. The word *exclusive* was inadvertently inserted in the act of Congress instead of the word *inclusive*, which appears in the award, and which it is the purpose of the act to enforce.

4. During the season extending from May 1 to July 31, both inclusive in each year, fur-seal fishing is forbidden to all persons mentioned in the first section of the act, and to all subjects of Great Britain, to persons owing the duty of obedience to the laws or the treaties of Great Britain, and to all persons belonging to or on board of a vessel of Great Britain, not only in the zone mentioned in the third paragraph of these instructions, but in that part of the Pacific Ocean, including Bering Sea, which is situated to the north of the thirty-fifth degree of north latitude and to the east of the one hundred and eightieth degree of longitude from Greenwich, till it strikes the water boundary between the United States and Russia. This boundary line passes through a point in Bering's straits on the parallel of  $65^{\circ} 30'$ , north latitude, at its intersection by the meridian which passes midway between the islands of Krusenstern, or Ingalook, and the island of Ratmanoff, or Noonarbook, and proceeds due north, without limitation, into the same frozen ocean. The same western limit, beginning at the same initial point, proceeds thence in a course nearly southwest through Bering's straits and Bering Sea, so as to pass midway between the northwest point of the Island of St. Lawrence and the southeast point of Cape Choukotski, to the meridian of one hundred and seventy-two west longitude; thence, from the intersection of that meridian, in a southwesterly direction until it strikes the one hundred and eightieth degree of longitude from Greenwich.

5. The regulations respecting the "special license" for sailing vessels,



and the "distinguishing flag" to be worn by the same during the open season, mentioned in sections 3 and 7 of the act, are hereafter to be prescribed and promulgated by the Governments of the United States and Great Britain.

6. Any vessel or person described in the first section of this act, or any subject of Great Britain, or person owing obedience to the laws or the treaties of Great Britain, or any person belonging to or on board of any vessel of Great Britain, unauthorized by this act, found to be or to have been employed in sealing during the period of time and in the waters therein prohibited, whether with or without warning, and any of such vessels or persons found therein, whether warned or not, having on board or in their possession apparatus or implements suitable for taking seal, or seal skins, or bodies of seals, you will order seized.

7. The commanding officer making the seizure will, at the time thereof, draw up a declaration in writing stating the condition of the seized vessel, the date and place of seizure, giving latitude and longitude and circumstances showing guilt. The seized vessel will be brought or sent, as soon as practicable, with all persons on board thereof, in charge of a sufficient force to insure delivery, together with witnesses and proofs, and the declaration of the officer making the seizure, if American, to the most convenient port of Alaska, California, Oregon, or Washington, and there delivered to the officers of the United States court having jurisdiction to try the offense and impose penalties for the same; and, if British, to Unalaska, and there delivered to the senior British naval officer present, or to the most convenient port in British Columbia, and delivered to the proper authorities of Great Britain, or delivered to the commanding officer of any British vessel charged with the execution of the award herein referred to.

8. A signed and certified list of the papers of the seized vessel will be delivered to the master thereof, and a duplicate copy will be transmitted with the declaration.

9. Copies of the act of the British Parliament are herewith inclosed.  
Very respectfully,

H. A. HERBERT,  
*Secretary of the Navy.*

Commander CHARLES E. CLARK, U. S. N.,  
*Commanding U. S. Naval Force in Bering Sea,  
U. S. S. Mohican, Port Townsend, Washington.*

*Mr. Uhl to Mr. Bayard.*

DEPARTMENT OF STATE,  
*Washington, April 27, 1894.*

SIR: I have received your dispatch of the 11th instant, concerning the enforcement of the Bering Sea regulations and calling attention to the use of the word "exclusive" in section 1 of the act approved April 6, 1894.

For your information, I inclose copy of the Department's note of the 18th instant<sup>1</sup> on this subject to the British ambassador at the capital, together with six copies of an act of Congress, approved April 24, 1894, wherein the error referred to is corrected.

I am, etc.,

EDWIN F. UHL,  
*Acting Secretary.*

<sup>1</sup> See p. 177.

*Mr. Webb to Mr. Gresham.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
*St. Petersburg, April 27, 1894.* (Received April 27.)

Russian minister, Washington, authorized to sign arrangement annexed to your instruction of March 30. Russian Government ready to enter into negotiations.

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*Mr. Webb to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
*St. Petersburg, April 16-28, 1894.* (Received May 12.)

SIR: Upon a request from Count Kapnist, the head of the Asiatic department of the foreign office, I called upon the gentleman yesterday afternoon. He imparted to me the following information.

Prince Cantacuzene has received authority to sign the agreement annexed to your instruction of March 30. He is further authorized to state that Russia is ready to enter into negotiations at any time tending to extend the terms fixed by the Paris Tribunal of Arbitration to the Pacific Ocean as far as the thirty-ninth degree of latitude.

The first portion of this I have telegraphed to you at the earnest request of Count Kapnist. The matter that concerns the extending of the terms fixed by the Paris Tribunal to the thirty-ninth degree of latitude I did not cable, as the count said that he had cabled himself to Count Cantacuzene.

I am, etc.,

G. CREIGHTON WEBB.

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*Sir Julian Pauncefoot to Mr. Gresham.*

WASHINGTON, *April 30, 1894.*  
(Received April 30, 1894.)

SIR: In accordance with the arrangement made when I had the honor of an interview with you and the Secretary of the Navy at the State Department, Mr. Herbert was good enough to send me on the 19th instant the draft of the instructions which it was proposed to issue to the officer commanding the United States naval force in Bering Sea, for his guidance in carrying out the provisions of the act of Congress passed to give effect to the award of the Bering Sea Tribunal of Arbitration.

On the following day I transmitted the draft instructions to my Government for their observations, and I am now in receipt of a telegram from Her Majesty's principal secretary of state for foreign affairs, in which I am directed to draw your attention to paragraph 6 of the draft instructions, so far as it relates to British vessels. That paragraph requires modification in order to bring it, as regards the powers to be exercised by United States cruisers over British vessels, within the limits prescribed by the British order in council conferring such powers.

The Earl of Kimberley desires me to state to you that the order in council which is about to be issued to empower United States cruisers to seize British vessels will only authorize them to make seizures of vessels contravening the provisions of the British act of Parliament, or, in other words, the provisions of the award.

There is no clause in the British act corresponding with section 10 of the United States act of Congress. United States cruisers can not therefore seize British vessels merely for having on board, while within the area of the award and during the close season, implements suitable for taking seal. The mode in which such vessels should be dealt with is indicated in the instructions issued on that point to the British naval officers, and of which I have the honor to inclose a copy, and Lord Kimberley suggests that the instructions to the United States cruisers should coincide with the British instructions so far as regards the seizure of British vessels. The Secretary of the Navy was good enough to furnish me, in addition to the draft of the proposed instructions to the United States cruisers, with a map intended to accompany them and purporting to show the delimitation of the waters embraced in the award. As regards this map, Lord Kimberley points out that the red line drawn thereon is not quite correct. It makes the meridian 180 strike the Russian water boundary north of the sixtieth degree of latitude instead of reaching it south of that degree, as it should do, according to the award.

I have the honor, etc.,

JULIAN PAUNCEFOTE.

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[Inclosure.]

*Instructions to British cruisers as to seizure.*

If a vessel which appears to be a sealing vessel is found in any waters in which, at the time, hunting is prohibited, you will ascertain whether she is there for the purpose of hunting, or whether she has hunted, or whether she was carried there by stress of weather, or by mistake, during fog, or is there in the ordinary course of navigation on her passage to any place.

If you are satisfied that the vessel has hunted contrary to the act, you will seize her and order her to proceed to the British port herein-after mentioned; but if you are of opinion that no offense has been committed you should warn her, and keep her, as far as you think necessary and as is practicable, under supervision.

Whether this vessel has been engaged in hunting you must judge from the presence of sealskins or bodies of seals on board and other circumstances and indications. If the vessel is found outside the specified limits and it is evident that she has been hunting within those limits, and that thus an offense has been committed, you will seize her and send her to port.

A vessel, though herself not within the prohibited limits, may violate the act by her boats hunting within such limits.

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*Mr. Bayard to Mr. Gresham.*

[Telegram.]

EMBASSY OF THE UNITED STATES,

*London, April 30, 1894.*

British minister for foreign affairs asks me to inform him exact terms President's instructions authorizing British officers to arrest the United States vessels contravening act of Congress as proclaimed.



*Mr. Gresham to Mr. Bayard.*

[Telegram.]

WASHINGTON, May 1, 1894.

After several conferences Secretary Carlisle, the British ambassador, and Dr. Dawson, agent for Canada, reached the conclusion that the following regulations would meet the present situation and avoid embarrassment this season:

REGULATIONS GOVERNING VESSELS EMPLOYED IN FUR-SEAL FISHING.

ARTICLE I.—*Fitness of crews to use arms.*

Before the issuance of a special license, the master of any sailing vessel proposing to engage in fur-seal fishing shall produce satisfactory evidence to the collector of customs that the hunters employed by him are competent to use the weapons authorized by law.

ART. II.—*The use of firearms, when prohibited.*

Firearms, nets, or explosives shall not be used for taking or killing fur seals in that portion of Bering Sea described in the act approved April 6, 1894, entitled "An act to give effect to the award rendered by the Tribunal of Arbitration at Paris, under the treaty between the United States and Great Britain, concluded at Washington, February 29, 1892, for the purpose of submitting to arbitration certain questions concerning the preservation of fur seals."

ART. III.—*Vessels now sealing in the North Pacific east of 180° longitude; how to secure safe conduct to home port or to Bering Sea.*

Any vessel having license to hunt fur seal in the North Pacific and Bering Sea east of 180° longitude shall, before entering Bering Sea, or at Unalaska, report to a customs officer of the United States, or an officer of the United States Navy, and have all arms and ammunition therefor on board secured under seal: such seal shall not be broken except by a customs officer of the United States or an officer of the United States Navy. The breaking of this seal, otherwise than above described, shall forfeit the license. The United States officer breaking the seal shall make a note of the fact on the margin of the license over his signature, showing the date. Any sealing vessel found in the prohibited waters of the North Pacific between May 1 and July 31, both inclusive, by any vessel or customs officer of the United States, shall be seized, as provided above, if there be evidence that she has violated the law. Otherwise her sealing outfit shall be secured under seal by the commander of any cruising vessel or customs officer upon declaration by her master that she wishes to proceed to a home port, and the officer placing this seal shall enter the date of same upon her register with the number of seal skins, given under oath, then on board. Said seal shall be broken by a customs officer upon her arrival at a home port. In the case of a sealing vessel wishing to proceed direct from the North Pacific to Bering Sea without touching at a home port, any officer authorized as above to seal her arms and ammunition shall, upon application of the master, enter upon her register his permission to do so, subject to the restrictions contained in the President's proclamation. This permission shall confer upon the vessel all the privileges and subject it to all the penalties of a regular license.

ART. IV.—*Vessels now in the North Pacific west of 180° longitude; how to secure safe conduct to home port or to Bering Sea.*

Vessels now in Japanese waters, on the Siberian coast west of 180° longitude, wishing to return to a home port, may enter the port of Attou, and there have their sealing outfits secured under seal and the fact entered on their registers. Such seal and entry shall be considered as sufficient protection against seizure whilst in prohibited water on their direct passage to a home port.

In case a sealing vessel, as described above, shall, before leaving a Japanese port, declare her intention of returning to a port of the United States, the United States consular officers of the port shall secure her sealing outfit, as described above.

Any vessel, as described above, may obtain special license to hunt fur seals in Bering Sea upon application to the United States consular office of any port in Japan, or from the customs officer at Attou, after furnishing the evidence required in Art. I, but in no case shall such vessel enter the prohibited waters of Bering Sea until the arms and ammunition therefor on board have been secured under seal.

Any customs officer of the United States, or officer of the United States Navy cruising to the westward of 180° longitude, may grant permission to enter Bering Sea as described in Art. III of these regulations.

ART. V.—*Vessels wishing to hunt for seals in Bering Sea on and after August 1; sealing of outfit, etc.*

Any vessel in a home or foreign port wishing to engage in fur-seal fishing in Bering Sea shall obtain special license for the same from a customs officer of the United States, if in a home port, and from a consular officer if in a foreign port. Before sailing the sealing outfit of such vessel shall be secured under seal and the fact noted on her license. Before entering Bering Sea such seal must be broken by a customs officer of the United States or an officer of the United States Navy. The breaking of this seal otherwise than as above will forfeit the special license and render the vessel liable to seizure.

ART. VI.—*Vessels at sea without special license and distinctive flag.*

Vessels now at sea in the pursuit of fur seals and found not to have violated the law in reference to the taking of fur seals, and which have not cleared from port on or after May 1, 1894, will not be molested on account of not having special license or distinctive flag, but may continue their cruise without either if they have complied, or shall comply, with the requirements of Articles IV and V of these regulations.

ART. VII.

Every vessel employed in fur-seal fishing as above described shall have, in addition to the papers now required by law, a special license for fur-seal fishing.

ART. VIII.

Every sealing vessel provided with special license shall show under her national colors a flag not less than 4 feet square, composed of two equal pieces, yellow and black, joined from the right-hand upper corner



of the fly to the left-hand lower corner of the luff, the part above and to the left to be black, and the part to the right and below to be yellow.

## ART. IX.

The authority hereinbefore granted to United States consular officers, customs officers, and officers of the United States Navy may be exercised by like officers in the service of the Government of Great Britain except in the ports of the United States.

## NOTICE.

Officers herein authorized to carry out the provisions of the act approved April 6, 1894, entitled "An act to give effect to the award rendered by the Tribunal of Arbitration at Paris, under the treaty between the United States and Great Britain, concluded at Washington, February 29, 1892, for the purpose of submitting to arbitration certain questions concerning the preservation of fur seals," will observe that the objects of the foregoing articles are to prevent the unlawful destruction of seals and to protect from unnecessary seizure or loss sealing vessels already at sea in ignorance of the provisions of the act or unable to comply strictly with its requirements. Should cases occur which are not here definitely provided for, they must be dealt with by the officers with the above-mentioned objects in view, and as nearly in accordance with the law and regulations as possible.

Having sent a copy to Canada, and, I presume, to London, Sir Julian yesterday informed us that Canada strenuously opposed regulations as unfair and not in accordance with Paris award. President thinks that under the circumstances the two Governments should put these regulations or something substantially like them into force at once. Disagreement at this time very unfortunate, and if understanding is not reached in a day or two instructions will be sent to our officers to enforce award on our part.

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*Mr. Gresham to Prince Cantacuzene.*

DEPARTMENT OF STATE,  
Washington, May 3, 1894.

The Secretary of State presents his compliments to the minister of Russia, and has the honor to request that Prince Cantacuzene will have the kindness to call at the Department of State to-morrow morning, at 10.30 o'clock, for the purpose of signing, with the Secretary of State, the proposed agreement for a *modus vivendi* between the United States and Russia in relation to the fur-seal fisheries in Bering Sea and the North Pacific Ocean.

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*Mr. Gresham to Mr. Bayard.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, May 4, 1894.

Following special instructions relative to sealing vessels lawfully navigating area of award approved to day:

I. No sealing vessel shall be seized or detained by reason of the



absence of a license or of a distinctive flag or merely on account of seals, seal skins or fishery implements being found on board, but unless there be evidence of unlawful seal hunting the commander of the cruiser visiting such sealing vessel shall deliver to the master a certificate of the number of seals and seal skins found on board on that date (keeping a copy of such certificate), and allow the vessel to proceed on her way.

II. Any sealing vessel lawfully traversing or intending to traverse the said waters during the close season for the purpose of returning to her home port or of proceeding to any other port or to or from the sealing grounds, or for any other legitimate purpose, may, on the application of the master, have her fishery implements sealed up and an entry thereof made on her clearance or log book, and such sealing up and entry shall be a protection to the vessel against interference by any cruiser in the said waters during the close season so long as the seals so affixed shall remain unbroken, unless there shall be evidence of seal hunting notwithstanding.

III. The sealing up of fishing implements and the entry thereof may be effected by any naval officer, or customs officer, or (in Japan) by any consul of the nation to which the vessel belongs. It may be also effected at sea, as regards United States vessels by the commander of a British cruiser, and as regards British vessels by the commander of a United States cruiser.

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*Prince Cantacuzene to Mr. Gresham.*

[Translation.]

WASHINGTON, April 22-May 4, 1894.

MR. SECRETARY OF STATE: On the 8-20th of April last you were pleased, in pursuance of the instructions of the President of the United States, to inform me that, if the Imperial Government assented thereto, the Federal Government was prepared to conclude with Russia, England, and Japan—in lieu of any provisional arrangement—a treaty regulating and establishing the conditions of fur-seal hunting in the Pacific Ocean on bases identical for all, and in conformity with the decisions and regulations of the Paris Tribunal of Arbitration. You expressed, at the same time, the opinion that this object would be best attained by extending from one continent to the other the prohibited and protected zone, the southern boundary of which should be the thirty-fifth parallel of north latitude.

I immediately communicated to my Government these propositions, which furnish evidence conclusive of the principles of equity and justice that actuate the Federal Government in this matter, and I have already had the honor verbally to inform you of the satisfaction with which these overtures have been received by the Emperor's Government.

As the season is now too far advanced to permit us to negotiate such a treaty without adopting temporary measures for the protection of our waters, it has been thought necessary to conclude in the mean time a *modus vivendi*, which may at any time be superseded by a more complete treaty.

In signing to-day this essential provisional arrangement, I hereby reiterate to you, in writing, the declaration that the Imperial Government is, for its part, prepared to negotiate and sign with the United

States, England, and Japan a treaty in virtue of which the principles and regulations of the Paris Tribunal of Arbitration shall be applicable indifferently to all the waters of the Pacific Ocean situated north of the thirty-fifth parallel of north latitude.

Be pleased to accept, etc.,

CANTACUZENE.

*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,

Washington, May 7, 1894.

EXCELLENCY: The two Governments having provided by legislation and regulations for the enforcement of the award of the Paris Tribunal under the treaty of February 29, 1892, the time appears to have arrived for carrying out the stipulation of article 7 of the convention.

I am therefore directed by the President to invite the attention of Her Majesty's Government to the matter, to the end that with all convenient speed the two Governments may cooperate in securing the adhesion to the award of other powers, especially Russia and Japan.

I have the honor to be, etc.,

W. Q. GRESHAM.

*Mr. Gresham to Mr. Bayard.*

DEPARTMENT OF STATE,

Washington, May 8, 1894.

SIR: I inclose herewith copy of a note<sup>1</sup> which I have this day addressed to the British ambassador at this capital, suggesting that the time has arrived for the Governments of the United States and Great Britain to cooperate in securing the adhesion of other powers, especially Russia and Japan, to the award of the Paris Tribunal.

I am, etc.,

W. Q. GRESHAM.

*Sir Julian Pauncefote to Mr. Gresham.*

WASHINGTON, May 8, 1894.

SIR: In accordance with a request made to me by the governor-general of Canada, acting under instructions from Her Majesty's Government, I have the honor to transmit herewith, for the information of the United States Government, a copy of a minute<sup>2</sup> of his excellency's council, dated the 16th ultimo, to which is appended a complete list of such British vessels as have cleared from Canadian ports for the sealing grounds during the present season.

Of these vessels it appears that 34 have cleared for the coast of Japan and 24 for the American coast, making in all 48.

I have, etc.,

JULIAN PAUNCEFOTE.

<sup>1</sup>Printed above.

<sup>2</sup>See Senate Ex. Doc. No. 67, Fifty-third Congress, third session, page 122.

*Sir Julian Pauncefote to Mr. Gresham.*

WASHINGTON, May 8, 1894.

SIR: By direction of Her Majesty's principal secretary of state for foreign affairs I have the honor to inform you that instructions will be sent to the officers in command of Her Majesty's cruisers in Bering Sea to distribute copies of the Bering Sea award act and of an explanatory map to all British sealers which they may meet in those waters.

As, however, the United States cruisers patrolling in those waters may meet with British sealers which have not been spoken by one of Her Majesty's ships, Lord Kimberley requests me to ask you whether your Government would instruct United States naval officers to give copies of these documents to any British vessels which they may find to be without them.

In case your Government accede to this request, I shall have the honor to inclose copies of the act and map for the purpose above mentioned.

I have, etc.,

JULIAN PAUNCEFOTE.

*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,

Washington, May 9, 1894.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of yesterday's date, in which, referring to the steps taken to warn sealing vessels in Bering Sea, you ask whether the naval officers of the United States would be instructed to give to British sealers they may speak copies of the Bering Sea award act and of an explanatory map thereto annexed, of which you offer to furnish copies for that purpose.

By the second paragraph of the amended instructions issued by the Secretary of the Navy to the commanding officers of the United States fleet in Bering Sea, under date of 4th instant, in place of the previous instructions of April 18, the British act is among the papers to be delivered to the masters of sealing vessels so warned.

It will give me much pleasure to receive and communicate to the Secretary of the Navy for appropriate distribution the copies of the British act and the annexed map which you offer to supply.

I inclose for your information copies of the above-mentioned naval instructions and of the regulations governing vessels employed in fur-seal fishing.

I have, etc.,

W. Q. GRESHAM.

[Inclosure.]

NAVY DEPARTMENT,

Washington, May 4, 1894.

SIR: Congress having passed acts which were approved April 6, 1894, and April 24, 1894, and the Government of the United States having made arrangements with Great Britain to give effect to the award rendered by the Tribunal of Arbitration at Paris, under the treaty between the United States and Great Britain, concluded at Washington, February 29, 1892, for the purpose of submitting to arbitration certain



questions concerning the preservation of fur seals, you are detailed to command a force of naval and revenue vessels to carry out the provisions of the award, of the acts of Congress, and of the President's proclamation dated Washington, D. C., April 9, 1894.

You will order the vessels under your command to warn all American and British vessels they may meet not to engage in fur-seal fishing within the area of the award, during the periods of time in which fur-seal fishing is forbidden, and to deliver to the master of each of such vessels a copy of the President's proclamation, of the act of Congress, approved April 24, 1894, of the President's regulations governing vessels employed in fur-seal fishing, of the British act, and of these instructions.

Whenever a vessel may be warned, the commander of the cruiser, or the customs officer, as the case may be, shall, after making an examination of the vessel, leave with the master of said vessel a certificate showing the date and place of examination, the number of seal skins, and the number of bodies of seals then on board, and shall preserve a duplicate of said certificate. And no officer, subsequently boarding such vessel, shall seize the same, unless he shall be satisfied, as herein provided, that it has committed a violation of law by killing fur seal within the area of the award subsequent to the 30th day of April, 1894.

Fur-seal fishing is forbidden to all persons mentioned in section 1 of said act of Congress, to all subjects of Great Britain, to persons owing the duty of obedience to the laws or the treaties of Great Britain, and to all persons belonging to or on board of a vessel of Great Britain, at any time, or in any manner whatever, outside of territorial waters, in the waters surrounding the Pribilof Islands within a zone of 60 geographical miles thereof (60 to a degree of latitude) around said islands, inclusive of the territorial waters.

Fur-seal fishing is forbidden during the season extending from May 1, to July 31, both inclusive, in each year, to all persons mentioned in the first section of said act of Congress, and to all subjects of Great Britain, to persons owing the duty of obedience to the laws or the treaties of Great Britain, and to all persons belonging to or on board of a vessel of Great Britain, not only in the zone mentioned in the fourth paragraph of these instructions, but in that part of the Pacific Ocean, including Bering Sea, which is situated to the north of the thirty-fifth degree of north latitude and to the east of the one hundred and eightieth degree of longitude from Greenwich, till it strikes the water boundary between the United States and Russia. This boundary line passes through a point in Bering Straits on the parallel of  $65^{\circ} 30'$  north latitude, at its intersection by the meridian which passes midway between the islands of Krusenstern or Ignalook, and the island of Ratmanoff or Noonarbook, and proceeds due north, without limitation, into the same frozen ocean. The same western limit, beginning at the same initial point, proceeds thence in a course nearly southwest, through Bering Straits and Bering Sea, so as to pass midway between the north-west point of the island of St. Lawrence and the southeast point of Cape Choukotski to the meridian of one hundred and seventy-two west longitude; thence, from the intersection of that meridian, in a south-westerly direction, until it strikes the one hundred and eightieth degree of longitude from Greenwich.

Any vessel or person described in the first section of said act of Congress, or any vessel or subject of Great Britain, or person owing obedience to the laws or the treaties of Great Britain, or any person belonging

to or on board of any vessel of Great Britain, unauthorized by this act found to be or to have been engaged in fur-seal fishing within the area of the award, during the periods of time in which fur-seal fishing is forbidden, you will order seized.

If a vessel which appears to be a sealing vessel is found within the area of the award, during the periods of time in which fur-seal fishing is forbidden, you will ascertain whether she is there for the purpose of fur-seal fishing, whether she has been engaged in fur-seal fishing, whether she was carried there by stress of weather, by a mistake during foggy or thick weather, or is there in the ordinary course of navigation, making the best of her way to any place. You must judge whether such vessel has been engaged in fur-seal fishing from the presence of seal skins or bodies of seals on board, and from other circumstances and indications. If such vessel is found outside of the area of the award, and it is evident that she has been engaged in fur-seal fishing within said area, and has thus committed an offense, you will order her seized. A vessel may violate the law by her boats fur-seal fishing within said area, while the vessel, herself, is outside of said area.

The commanding officer making the seizure will, at the time thereof, draw up a declaration in writing, stating the condition of the seized vessel, the date and place of seizure, giving latitude and longitude and circumstances showing guilt. The seized vessel will be brought or sent, as soon as practicable, with all persons on board thereof, in charge of a sufficient force to insure delivery, together with witnesses and proofs, and the declaration of the officer making the seizure, if American, to the most convenient port of Alaska, California, Oregon, or Washington, and there delivered to the officers of the United States court having jurisdiction to try the offense and impose penalties for the same; and if British, to Unalaska, and there delivered to the senior British naval officer present, or carried to the most convenient port in British Columbia, and delivered to the proper authorities of Great Britain, or delivered to the commanding officer of any British vessel charged with the execution of the award herein referred to.

A signed and certified list of the papers of the seized vessel will be delivered to the master thereof, and a duplicate copy will be transmitted with the declaration.

You will arrange with the commanders of the British vessels engaged in carrying out the provisions of the award for the mutual delivery of vessels of the one country seized by officers of the other.

These instructions will remain in force only during the present season.

Very respectfully,

H. A. HERBERT,  
*Secretary of the Navy.*

Commander CHARLES E. CLARK, U. S. N.,  
*Commanding U. S. Naval Force in Bering Sea,  
U. S. S. Mohican, Port Townsend, Wash.*

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*Regulations governing vessels employed in fur-seal fishing.*

ARTICLE I.

FITNESS OF CREWS TO USE ARMS.

Before the issuance of a special license the master of any sailing vessel proposing to engage in fur-seal fishing shall produce satisfactory evidence to the collector of customs that the hunters employed by him are competent to use the weapons authorized by law.



## ARTICLE II.

## THE USE OF FIREARMS—WHEN PROHIBITED.

Firearms, nets, or explosives shall not be used for taking or killing fur seals in that portion of Bering Sea described in the act approved April 6, 1894, entitled "An act to give effect to the award rendered by the Tribunal of Arbitration at Paris, under the treaty between the United States and Great Britain, concluded at Washington, February 29, 1892, for the purpose of submitting to arbitration certain questions concerning the preservation of fur seals."

## ARTICLE III.

## VESSELS NOW SEALING IN THE NORTH PACIFIC EAST OF 180° LONGITUDE—HOW TO SECURE SAFE CONDUCT TO HOME PORT OR TO BERING SEA.

Any vessel having license to hunt fur seals in the North Pacific and Bering Sea east of 180° longitude may, before entering Bering Sea, or at Unalaska, report to a customs officer of the United States, or an officer of the United States Navy, and have all arms and ammunition therefor on board secured under seal; such seal shall not be broken during the time fur-seal fishing is prohibited. In order to protect vessels found within the area of the award between April thirtieth and August first, but which have not violated the law, from improper seizure or detention, the masters thereof may, by applying to the commander of any cruiser or to a customs officer and declaring that she intends to proceed to a home port, have her sealing outfit secured under seal, and the officer placing this seal shall enter the date of the same upon her log book, with the number of seal skins and bodies of seals then on board, and said seal shall not be broken during the time fur-seal fishing is prohibited, except at the home port.

## ARTICLE IV.

## VESSELS NOW IN THE NORTH PACIFIC WEST OF 180° LONGITUDE—HOW TO SECURE SAFE CONDUCT TO HOME PORT OR TO BERING SEA.

Vessels now in Japanese waters or on the Siberian coast west of 180° longitude, wishing to return to a home port, may enter the port of Attou and there have their sealing outfits secured under seal and the fact entered on their log books. Such seal shall not be broken except at her home port, and such seal and entry shall constitute a sufficient protection against *seizure* whilst within the area of the award on their direct passage to such port.

In case a sealing vessel, as described above, shall before leaving a Japanese port declare her intention of returning to a port of the United States, the United States consular officers of the port may, upon application of her master, secure her sealing outfit as described above.

Any vessel, as described above, may obtain special license to hunt fur seals in Bering Sea upon application to the United States consular office of any port in Japan or from the customs officer of Attou, after furnishing the evidence required in Article I.



## ARTICLE V.

VESSELS WISHING TO HUNT FUR SEALS IN BERING SEA ON AND  
AFTER AUGUST 1—SEALING OF OUTFIT, ETC.

Any vessel in a home or foreign port wishing to engage in fur-seal fishing in Bering Sea shall obtain special license for the same from a customs officer of the United States, if in a home port, and from a consular officer, if in a foreign port. Before sailing the sealing outfit of such vessel may be secured under seal, upon application, as hereinbefore provided, and the fact noted on her license. Such seal shall not be broken during the time fur-seal fishing is prohibited.

## ARTICLE VI.

## VESSELS AT SEA WITHOUT SPECIAL LICENSE AND DISTINCTIVE FLAG.

Vessels now at sea in the pursuit of fur seals and found not to have violated the law in reference to the taking of fur seals, and which have not cleared from any port on or after May 1, 1894, will not be seized solely on account of not having special license or distinctive flag.

## ARTICLE VII.

Every vessel employed in fur-seal fishing, as above described, shall have, in addition to the papers now required by law, a special license for fur-seal fishing.

## ARTICLE VIII.

Every sealing vessel provided with special license shall show under her national colors a flag not less than four feet square, composed of two equal pieces, yellow and black, joined from the right-hand upper corner of the fly to the left-hand lower corner of the luff, the part above and to the left to be black, and the part to the right and below to be yellow.

## ARTICLE IX.

The authority hereinbefore granted to United States consular officers, customs officers, and officers of the United States Navy may be exercised by like officers in the service of the Government of Great Britain, except in the ports of the United States.

## NOTICE.

Officers herein authorized to carry out the provisions of the act approved April 6, 1894, entitled "An act to give effect to the award rendered by the Tribunal of Arbitration at Paris, under the treaty between the United States and Great Britain, concluded at Washington February 29, 1892, for the purpose of submitting to arbitration certain questions concerning the preservation of fur seals," will observe that the objects of the foregoing articles are to prevent the unlawful destruction of seals and to protect from unnecessary seizure or loss sealing vessels already at sea in ignorance of the provisions of the act or unable to comply strictly with its requirements. Should cases occur which are not here definitely provided for, they must be dealt with by the officers with the above-mentioned objects in view and as nearly in accordance with the law and regulations as possible.

These regulations are intended to apply only to the closed season of 1894, and are not to be regarded as a complete execution of the authority conferred upon the Executive by the act of Congress.

Approved May 4, 1894.

GROVER CLEVELAND.

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*Sir Julian Pauncefote to Mr. Gresham.*

WASHINGTON, May 10, 1894.

SIR: In accordance with the agreement arrived at during the recent negotiations in relation to the means of giving effect for the present year to the fishery regulations prescribed by the award of the Bering Sea Tribunal of Arbitration, I have the honor to inclose for your approval a memorandum recording the arrangements concluded on that subject and accepted by both Governments, and I shall feel obliged if you will be good enough to inform me whether the memorandum meets with your approval.

I have, etc.,

JULIAN PAUNCEFOTE.

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[Inclosure in No. 106.]

*Memorandum of the arrangements agreed upon between the Governments of Great Britain and the United States for giving effect during the year 1894 to the fur-seal fishery regulations prescribed by the award of the Bering Sea Tribunal of Arbitration.*

#### LICENSES.

The special license to be issued to sealing vessels under article 4 of the regulations of the award shall declare that the licensee has given satisfactory evidence of the fitness of the hunters to be employed by him, as required by article 7.

It shall be issued subject to the observance of the said regulations and to the penalties imposed by law for the violation thereof.

It shall be in such form as each Government shall determine for itself.

#### DISTINCTIVE FLAG.

Every sealing vessel provided with a special license shall show, under her national colors, a flag, not less than 4 feet square, composed of two equal pieces, yellow and black, joined from the right-hand upper corner of the fly to the left-hand lower corner of the luff, the part above and to the left to be black and the part to the right and below to be yellow.

#### REGULATIONS RESPECTING SEALING VESSELS LAWFULLY NAVIGATING THE MARITIME AREA OF THE AWARD DURING THE CLOSE SEASON.

1. No sealing vessel shall be seized or detained by reason of the absence of a license or of a distinctive flag, or merely on account of seals, seal skins, or fishery implements being found on board; but, unless there be evidence of unlawful sealing, the commander of the cruiser visiting such vessel shall deliver to the master a certificate of the num-

ber of seals and seal skins found on board on that date (keeping a copy of such certificate) and allow the vessel to proceed on her way.

2. Any sealing vessel lawfully traversing, or intending to traverse, the said waters during the close season, for the purpose of returning to her home port, or of proceeding to any other port, or to or from the sealing grounds, or for any other legitimate purpose, may, on the application of the master, have her fishery implements sealed up and an entry thereof made on her clearing and log book, and such sealing up and entry shall be a protection to the vessel against interference by any cruiser in the said waters during the close season so long as the seals so affixed shall remain unbroken, unless there shall be evidence of seal hunting notwithstanding.

3. The sealing up of fishery implements and the entry thereof may be effected by any naval officer or customs officer, or (in Japan) by any consul of the nation to which the vessel belongs. It may also be effected at sea, as regards United States vessels, by the commander of a British cruiser, and, as regards British vessels, by the commander of a United States cruiser.

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*Sir Julian Pauncefote to Mr. Gresham.*

WASHINGTON, May 10, 1894.

SIR: With reference to my note of the 8th instant and to your reply thereto of the 9th instant, I have the honor to inclose copies of the British Bering Sea award act and of the explanatory map therein mentioned, which you are good enough to state will be distributed by the United States cruisers among British sealers in the manner requested by Her Majesty's Government.

I have also the honor to acknowledge the receipt of the amended naval instructions issued by the Secretary of the Navy on the 4th instant to the commanding officers of the United States fleet in Bering Sea, and of the regulations attached thereto, which I shall lose no time in transmitting to my Government.

I have, etc.,

JULIAN PAUNCEFOTE.

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*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,

Washington, May 11, 1894.

EXCELLENCY: In reply to your excellency's note of the 10th instant inclosing a memorandum of certain arrangements agreed upon between our respective Governments for giving effect during the year 1894 to the fur-seal fishery regulations prescribed by the award of the Bering Sea Tribunal of Arbitration, I have the honor to state that I approve of the memorandum as containing a correct record of the arrangements agreed upon.

I have the honor to be, etc.,

W. Q. GRESHAM.



*Mr. Gresham to Mr. Bayard.*

DEPARTMENT OF STATE,  
Washington, May 12, 1894.

SIR: Yours of the 27th ultimo\* has been received. I note your citation of the reply, made in the House of Commons on the 26th ultimo by Sir E. Grey to an inquiry of Sir G. Baden-Powell, wherein the important announcement is made that the provisions of the award of the Tribunal of Arbitration, which Great Britain and the United States were bound to carry out, were matters of common knowledge in August last, and that "every possible means will be taken to give to sealers now at sea specific warning that the regulations will be enforced." Sir E. Grey added the equally positive statement that "any British or United States vessel contravening the provisions of the Bering Sea award act, 1894, will be liable to be arrested and sent to a British court for trial," the last phrase, of course, relating to the jurisdiction of the courts of the two countries over vessels of the respective nationalities seized under the provisions of the concurrent acts of Parliament and Congress.

In this relation I may properly mention a conversation I had on the 12th ultimo with Mr. Goschen, Secretary of the British embassy, who called upon me in behalf of Sir Julian Pauncefoot, then confined to his house by indisposition.

Mr. Goschen stated that Sir Julian had received an instruction from Lord Kimberley interpreting subclause 2 of section 7 of the British bill then pending, and read from a written memorandum as follows:

In clause 7, subclause 2, of the British bill the following phrase occurs: "Where \* \* \* it is proved that the ship sailed from its port of departure before the scheduled provisions were published there," etc. The publication referred to is that of the provisions of the award, not that of the bill.

Mr. Goschen added that it would please Sir Julian if I would make this statement to the Senate Committee on Foreign Affairs, in order that the position of Great Britain might be correctly understood.

After some conversation as to whether the "scheduled provisions" so referred to in the British bill were those of the Paris award itself, or of the regulations reported by the tribunal, I said to Mr. Goschen that it would be for the courts to decide what the words "scheduled provisions" mean; and that, in construing statutes and for the purpose of ascertaining the legislative intention, courts sometimes have recourse to the debates or discussions which occurred while the measure was under consideration, but that mere verbal communications from one government to another—such as that now made—would not be considered by a court. I preferred that any communication the British Government might desire to make on this subject should be official and in writing. I added that if I should inform the Senate committee of the interpretation which Lord Kimberley placed upon subclause 2, and British courts should subsequently give it another and different construction, Her Majesty's Government might feel somewhat embarrassed.

I subsequently received from the ambassador under date of the same day, a personal note, of which a copy is inclosed herewith,† conveying Lord Kimberley's interpretation of the clause in question.

\* Not printed.

† See p. 175

Not the least gratifying incident of the protracted negotiations was the subsequent amendment of subclause 2, section 7, of the bill, so that as finally passed it provides for proof that "the ship sailed from its port of departure before the provisions of the award mentioned in the first schedule of the act were known there, and that such person or the master of the ship did not, after such sailing and before the alleged offense, become aware of such provisions" in order to exonerate them.

I am, etc.,

W. Q. GRESHAM.

*Mr. Uhl to Prince Cantacuzene.*

DEPARTMENT OF STATE,  
Washington, May 12, 1894.

SIR: I have the honor to acknowledge the receipt of your note of the 4th instant, and to express to you the gratification with which this Government accepts your declaration that the Imperial Government is prepared to negotiate and sign with the United States, England, and Japan a treaty in virtue of which the principles and regulations of the Paris Tribunal of Arbitration shall be applicable, indifferently, to all the waters of the Pacific Ocean north of the thirty-fifth parallel of north latitude.

Accept, etc.,

EDWIN F. UHL, *Acting Secretary.*

*Mr. Uhl to Mr. Bayard.*

DEPARTMENT OF STATE,  
Washington, May 14, 1894.

SIR: I inclose herewith for your information copy of an agreement\* between the Government of the United States and the Imperial Government of Russia for a modus vivendi in relation to the fur-seal fisheries in Bering Sea and the North Pacific Ocean, concluded on May 4, 1894.

I also inclose translation of a note of the 4th instant† from the Russian minister in this capital, wherein he declares that the Imperial Government is prepared to negotiate and sign with the United States, England, and Japan a treaty, in virtue of which the principles and regulations of the Paris Tribunal of Arbitration shall be applicable, indifferently, to all the waters of the Pacific Ocean situated north of the thirty-fifth parallel of north latitude.

I am, etc.,

E. F. UHL, *Acting Secretary.*

\* See page 158.

† See page 190.

*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, May 28, 1894.

EXCELLENCY: Referring to my note to you of the 7th instant regarding the joint invitation of foreign powers to adhere to the award of the Bering Sea Tribunal, I beg to inquire whether you have received instructions from your Government on the subject.

In the judgment of the President prompt action is very desirable.

I have, etc.,

W. Q. GRESHAM.

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*Mr. Bayard to Mr. Gresham.*

EMBASSY OF THE UNITED STATES,  
London, May 30, 1894.

SIR: I have the honor to acknowledge your instructions dated May 12, with certain inclosures, all having relation to the international arrangements to carry into effect the award and regulations by the Paris Tribunal of fur sealing in the waters of the North Pacific and Bering Sea.

Your expressions of appreciation and approval of my official action here, in assisting your efforts to make this resort to arbitration successful, are naturally gratifying and are fully appreciated by me.

As the transaction has been conducted on both sides with honorable candor, and with the single purpose of performing a clearly stipulated class of international duties and obligations, it may reasonably be expected that the progressive execution of the treaty and the award, under the cooperative laws and regulations of the two high contracting powers, will be complete and satisfactory.

I beg now to inclose copies of two notes, dated respectively April 30 and May 3, addressed by me to Lord Kimberley, in relation to the orders in council requisite to execute the British statutes, and prevent violation of the interdictions against pelagic sealing within the award area.

These documents complete, I believe, the correspondence which has thus far taken place touching the arrangements between the United States and Great Britain for the policing of the award area recited in the regulations established by the Paris Tribunal.

I have also the honor to acknowledge your instruction, dated May 14, transmitting a copy of an agreement between the United States and Russia for a *modus vivendi*, in relation to fur sealing in the waters of Bering Sea and the North Pacific Ocean.

This instrument runs upon the identical lines of the British arrangement with Russia, which was in force in 1893, and is renewed for the present year.

The announcement in the note of the Russian minister at Washington of the readiness of Russia to join in a quadripartite convention with the United States, Great Britain, and Japan, to regulate sealing in all the waters of the Pacific Ocean north of the thirty-fifth parallel of north longitude is very satisfactory, and I can not doubt that Japan



will be equally willing to lend her aid in putting an end to pelagic sealing.

The interdiction of the use of firearms, nets, and explosives, in the capture of seals, can not fail, if obeyed, to make pelagic sealing almost profitless, and one or two seasons of rigid enforcement of the regulations by active marine police will suffice, I trust, to put an end to the wasteful and cruel slaughter of the seal in the sea.

I have, etc.,

T. F. BAYARD.

[Inclosure 1.]

EMBASSY OF THE UNITED STATES,

*London, April 30, 1894.*

DEAR LORD KIMBERLEY: Let me thank you for your note of Saturday last, which came to my residence that night.

I am glad to have copies of the British Bering Sea act as finally approved, and also of the explanatory maps of the award area in these waters.

The questions of the form of license and the distinguishing flag for the fur-sealing vessels will no doubt be easily and satisfactorily agreed upon at the State Department at Washington by the representatives mutually in charge.

While it does not occur to me that there will probably be any objection to the United States officers of the marine patrol distributing copies of any of the documents of either Government to the sealing vessels, yet the protecting value or condoning force of such papers to vessels found flagrante delicto is not quite obvious, i. e., pursuing seals in contravention of the provisions of the award at Paris, which, in the words of the instructions of the admiralty issued to Her Majesty's vessels, were "matters of common knowledge before the sealers started."

Although the telegraph newspaper reports allege the delivery several days ago to Sir Julian Pauncefoot in Washington of (confidential) copies of the President's instructions to United States cruisers in which authority is given to Her Majesty's officers in command of the patrolling vessels to make seizure of United States sealing vessels contravening the act of Congress, yet I have telegraphed to Washington for the information requested in your note, and so soon as I receive the exact terms by which the President will confer on commanders of Her Majesty's cruisers, authority to arrest United States vessels I will communicate with you.

Believe me, etc.,

T. F. BAYARD.

[Inclosure 2.]

EMBASSY OF THE UNITED STATES,

*London, May 3, 1894.*

DEAR LORD KIMBERLEY: The mail of last night did not bring me the documents I expected, relating to the United States ships and officers detailed for service in the patrol of the Bering Sea award area, nor the precise terms of the President's instructions including therein authority to the commanders of Her Majesty's cruisers.

Impressed with our conversation yesterday afternoon, I felt very desirous of conveying reassurances to my Government of the fulfill-

ment *uberimma fide* of the British share of duty in carrying out the results of the arbitration, and I have to-day telegraphed Secretary Gresham to the effect that, in my interview with your lordship, I became fully impressed with the belief that the reported objections or interference by the Canadian officials would not be allowed by the Government of Her Majesty to prevent the consummation of the agreement to execute the letter and spirit of the award, by competent regulations under the authority of the order in council.

Believe me, etc.,

T. F. BAYARD.

*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, June 2, 1894.

EXCELLENCY: I have the honor to inclose herewith for your information copy of a *modus vivendi* between the United States and Russia\* for the protection of fur seals in and near the Russian waters of the Bering Sea and in a zone of 30 miles around the Commander and Robben Islands.

I have, etc.,

W. Q. GRESHAM.

*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, June 2, 1894.

EXCELLENCY: I have the honor to inclose herewith copy of a bill which has passed both Houses of Congress and been approved by the President, entitled "A bill supplementary to an act approved April 6, 1894, for the execution of the award rendered at Paris, August 15, 1893, by the Tribunal of Arbitration constituted under the treaty between the United States and Great Britain, concluded at Washington, February 29, 1892, in relation to the preservation of the fur seal."

I have, etc.,

W. Q. GRESHAM.

[Inclosure.]

A BILL supplementary to an act approved April sixth, eighteen hundred and ninety-four, for the execution of the award rendered at Paris, August fifteenth, eighteen hundred and ninety-three, by the Tribunal of Arbitration constituted under the treaty between the United States and Great Britain, concluded at Washington, February twenty-ninth, eighteen hundred and ninety-two, in relation to the preservation of the fur seal.

Whereas by the seventh article of the treaty between the United States and Great Britain, concluded at Washington, February twenty-ninth, eighteen hundred and ninety-two, in relation to the preservation

\*See page 158.

of the fur seal, the high contracting parties agree to cooperate in securing the adhesion of other powers to such regulations as the arbitrators under said treaty might determine upon for that purpose; and

Whereas by an act of Congress, approved April sixth, eighteen hundred and ninety-four, provision has been made by the United States for the execution of the regulations so determined upon and for the punishment of any infractions of said regulations: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the procedure and penalties provided by said act, in case of the violation of the provisions of said regulations, are hereby made applicable to and shall be enforced against any citizen of the United States, or person owing the duty of obedience to the laws or the treaties of the United States, or person belonging to or on board of a vessel of the United States who shall kill, capture, or pursue, at any time or in any manner whatever, as well as to and against any vessel of the United States used or employed in killing, capturing, or pursuing, at any time or in any manner whatever, any fur seal or other marine fur-bearing animal, in violation of the provisions of any treaty or convention into which the United States may have entered or may hereafter enter with any other power for the purpose of protecting fur seals or other marine fur-bearing animals, or in violation of any regulations which the President may make for the due execution of such treaty or convention.

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*Sir Julian Pauncefote to Mr. Gresham.*

WASHINGTON, June 7, 1894.

SIR: Adverting to the verbal communications which have passed between us respecting the best mode of verifying and adjusting the British claims for compensation for the seizure of British sealing vessels in Bering Sea, I have now the honor to transmit herewith, by direction of Her Majesty's principal secretary of state for foreign affairs, a complete list and summary of those claims, together with memoranda of the additions and amendments made since their original presentation. I am at the same time to make the following suggestion, with a view to adjustment of those claims with the least possible labor, expense, and delay:

The whole of the claims, excepting that of the *Henrietta* and that of the *Black Diamond* (1886), were laid before the Tribunal of Arbitration at Paris, together with the evidence in support of them. The facts on which they rest were found by the arbitrators, as provided by Article VIII of the Treaty of Arbitration, and form part of the award. In view of the decision of the Tribunal on the questions of law submitted to them, it only now remains to assess the damages. I am accordingly authorized by the Earl of Kimberley to propose that, for the purpose of such assessment, each Government should appoint a duly qualified commissioner, who should be a lawyer and, if possible, possess some knowledge of the conditions of the sealing industry.

That the two commissioners should sit together at Victoria, British Columbia, where all the evidence in verification of the claims can be obtained on the spot. That they should make a joint report on all the claims in which they have agreed as to the amount of damages, and



separate reports in the cases in which they have failed to agree, fully stating the grounds of such disagreement.

That the assessment of damages by the two commissioners, where they have been able to agree, shall be final.

That in cases where they have been unable to agree the differences shall be settled by the two Governments within a fixed period, failing which such differences shall be referred for final adjustment to an umpire to be appointed by the two Governments jointly, or, in case of disagreement, to be nominated by a foreign Government.

You informed me some time ago that, in the view of your Government, a convention would be necessary for the adjustment of the claims, and the Earl of Kimberley, to whom I did not fail to communicate that opinion, has instructed me to proceed at once with the negotiation of such a convention, on the basis of the arrangement above proposed, should it be favorably entertained by your Government.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure.]

*Memoranda of additions and amendments made since original presentation of list of British claims for compensation for the seizure of British sailing vessels in Bering Sea.*

ADA.

Claim of the master, Captain Gaudin, for personal loss and damage..... \$3,000

This claim was, by a mistake on the part of the agent of the owner of the *Ada*, not included when the other claims in connection with this vessel were entered. Captain Gaudin thought that it had been so included, and it was only on seeing the printed list of the British claims that he discovered that such was not the case. He at once requested that the omission might be rectified and his claim added to the list, and Her Majesty's Government, after causing an inquiry to be made into the circumstances of the case, decided that his application should be granted.

Captain Gaudin's claim has accordingly been added to the schedule of the claims entered with respect to the schooner *Ada*.

HENRIETTA.

[Seized by the U. S. war ship *Yorktown* on September 4, 1892.]

Value of vessel .....	\$4,000
Value of outfit and equipment .....	3,000
Value of 420 seal skins, at \$18 .....	7,560
Value of balance of estimated full catch for season in Bering Sea for three boats and three canoes, viz, 561 skins, at \$18 .....	10,098
Legal and personal expenses in defending action against vessel and cargo at Sitka, and in preparing and forwarding this claim.....	2,000

Claim of owner, with interest at 7 per cent, to date of payment..... 26,658

In his note, dated 13th of March last, Mr. Gresham stated that from the date on which the *Henrietta* was handed over to her captain, the United States Government ceased to bear any responsibility or to exercise any control with regard to that vessel, and that therefore they were unable to comply with the request of Her Majesty's Government that she should be sent to a British port for trial; but he added that the claim of her owner for compensation would receive due consideration when presented.

The claim in question has, therefore, been added to the general list of British claims.

## BLACK DIAMOND.

[Additional claim submitted by the master, Mr. Henry Paxton, for damages alleged to have been sustained by reason of the above schooner having been ordered out of Bering Sea in 1886 by the United States authorities.]

Estimated catch for August, 1886, 1,000 skins at \$7.50 each (the price of skins at Victoria during the fall of 1886)..... \$7,500

This claim was sent in too late for insertion in the general list of British claims. In view of the length of time that had elapsed since the occurrence of the action complained of, Her Majesty's Government deemed it advisable to cause an inquiry to be made as to the reason for the delay in presenting the claim. The reason given was that at the time of the seizure of the vessel, the coowners, who were three in number, were doubtful as to how far an appeal to the United States Government for redress would be entertained. In the following year one of the owners was lost at sea and another left the country, and it was only after the publication of the award that the surviving owner consulted his solicitor and was informed that he had a good and equitable claim for compensation. The claim was then drawn up and presented at once.

Her Majesty's Government also ascertained from the solicitors in question that the fact of the *Black Diamond* being boarded by the revenue officers of the United States and ordered out of Bering Sea in 1886 is entered in the records of the custom-house of Unalaska, and that due protest was made by the master of the vessel on the arrival of the schooner at Victoria.

Under the circumstances Her Majesty's Government considered that the reasons alleged for the delay were reasonable, and gave instructions that the claim should be presented to the United States Government, together with the other similar claims.

## JUANITA.

It will be noticed that the original claim of the owner of the *Juanita*, which was stated at \$14,695, has been amended so as to amount to \$17,697.66.

The ground upon which this claim was amended was that the owner made his original statement on the basis of \$8 per skin, whereas it was ascertained afterwards that the skins had been sold at San Francisco at an average of \$9.67 per skin.

*List and summary of the claims for compensation in respect of the seizures of British vessels in Bering Sea by the authorities of the United States.*

## CAROLINA.

[Seized by U. S. S. *Corwin* August 1, 1886.]

For—	Amount of claim as put forward by owner.
Value of vessel, 32 tons .....	\$4,000.00
Value of outfit (inconsumable).....	3,002.89
Insurance.....	352.50
Wages of crew up to date of seizure.....	1,832.22
Passage of crew from San Francisco to Victoria .....	71.72
Passage of mate, Sitka to Victoria, after release from prison .....	100.00
Personal expenses of owner.....	250.00
Legal expenses.....	1,250.00
Estimated seal catch for 1886.....	16,667.00
	27,526.33
Deduct value consumed during a full voyage .....	3,213.32
Claim by owner, with interest at 7 per cent to date of payment .....	24,313.01

*List and summary of the claims for compensation, etc.—Continued.*

## THORNTON.

[Seized by U. S. S. *Corwin* August 1, 1886.]

For—	Amount of claim as put forward by owner.
Value of vessel, 78 tons .....	\$6,000.00
Value of outfit (inconsumable) .....	2,941.63
Insurance .....	591.40
Wages paid to date of seizure to crew, etc .....	1,370.04
Passage money of crew from San Francisco to Victoria .....	177.16
Passage money of crew and expense of captain and mate after release, Sitka to Victoria .....	200.00
Personal expenses of owners .....	1,000.00
Legal expenses .....	1,250.00
Estimated catch of seals for 1886 .....	16,667.00
	30,197.23
Deduct value consumed on a full voyage .....	3,379.58
Claim by owners, with interest at 7 per cent to date of payment .....	26,817.65

## ONWARD.

[Seized by U. S. S. *Corwin* August 2, 1886.]

Value of vessel, 94 tons .....	\$4,000.00
Value of outfit (inconsumable) .....	1,778.69
Insurance .....	260.00
Wages paid for voyage .....	1,820.00
Passage, etc., of master and mate .....	200.00
Personal expenses of owner .....	250.00
Legal expenses .....	1,250.00
Estimated catch .....	16,667.00
	26,225.69
Deduct value consumed during full voyage .....	2,955.98
Claimed by owner, with interest at 7 per cent to date of payment .....	23,269.71

## FAVOURITE.

[Warned out of Bering Sea by U. S. S. *Corwin* August 2, 1886.]

Estimated loss of catch of 1,000 seals .....	\$7,000.00
Claim by owner, with interest at 7 per cent to date of payment .....	7,000.00

## W. P. SAYWARD.

[Seized by U. S. S. *Richard Rush* July 9, 1887.]

Passage of crew, etc .....	\$255.00
Passage of officers .....	250.00
Legal expenses of owners .....	850.00
Probable seal catch, 1887, 3,500 seals, at \$5.50 .....	19,250.00
Loss by detention, October 1, 1887, to February 1, 1888 .....	1,200.00
Loss of profit in season 1888 (February 1 to October 1) .....	6,000.00
Personal expenses of owners .....	250.00
Claim by owner, with interest at 7 per cent to date of payment .....	28,055.00
Cost of suit before Supreme Court United States, in rescizure of <i>W. P. Sayward</i> .....	62,847.12
Total .....	118,957.12

## GRACE.

[Seized by U. S. S. *Richard Rush* July 17, 1887.]

Value of vessel, 182 tons .....	\$12,000.00
Nonconsumable outfit .....	1,742.57
Passage of master and crew .....	200.00
Personal expenses of owners .....	250.00
Legal expenses .....	850.00
Probable catch, 1887, 4,200 seals, at \$5.50 .....	23,100.00
Claim of owner, with interest at 7 per cent to date of payment .....	38,142.57



*List and summary of the claims for compensation, etc.—Continued.*

## ANNA BECK.

[Seized by U. S. S. *Richard Rush* June 28, 1887.]

For—	Amount of claim as put forward by owner.
Value of vessel.....	\$8,000.00
Nonconsumable outfit.....	977.50
Passage of master and crew.....	460.54
Personal expenses of owner.....	250.00
Legal expenses.....	850.00
Probable seal catch, 1887, 3,150, at \$5.50.....	17,325.00
Claim of owner, with interest at 7 per cent to date of payment.....	27,863.04

## DOLPHIN.

[Seized by U. S. S. *Richard Rush* July 12, 1887.]

Value of vessel, 174 tons.....	\$12,000.00
Value of nonconsumable outfit.....	2,051.50
Passage of master and crew.....	300.00
Personal expenses of owner.....	250.00
Legal expenses.....	850.00
Probable catch, 1887, 4,500, at \$5.50.....	24,750.00
Claim of owner, with interest at 7 per cent to date of payment.....	40,201.50

## ALFRED ADAMS.

[Seized by U. S. S. *Richard Rush* July 10, 1887.]

Value of outfit seized.....	\$683.00
Personal expenses.....	200.00
Legal expenses.....	300.00
Probable catch, 3,500, at \$5.50.....	19,250.00
Claim of owner, with interest at 7 per cent to date of payment.....	20,433.00

## ADA.

[Seized by U. S. S. *Bear* August 25, 1887.]

Value of vessel, 68 tons.....	\$7,000.00
Value of nonconsumable outfit.....	2,500.00
Passage, etc., of master.....	100.00
Personal expenses.....	250.00
Legal expenses.....	850.00
Probable catch, 1887, 2,876, at \$5.50.....	15,818.00
Claim of owner, with interest at 7 per cent to date of payment.....	26,518.00

## TRIUMPH.

[Ordered not to enter Bering Sea by U. S. S. *Richard Rush* August 4, 1887.]

Illegal boarding and searching of <i>Triumph</i> , as set forth in affidavit.....	\$2,000.00
1,000 seal skins.....	8,000.00
Legal and other expenses.....	250.00
Claim of owner, with interest at 7 per cent to date of payment.....	10,250.00

## JUANITA.

[Seized by U. S. S. *Richard Rush* July 31, 1889.]

620 seal skins, at \$8.....	\$4,960.00
Balance of estimated catch for 1889, at \$8.....	9,424.00
Spears, etc.....	36.00
New ship's papers.....	25.00
Legal and other expenses.....	250.00
Claim of owner, with interest at 7 per cent to date of payment.....	14,695.00
For amended claim, see colonial office to foreign office, November 23, 1893.....	17,697.66

*List and summary of the claims for compensation, etc.—Continued.*

## PATHFINDER.

[Seized by U. S. S. *Richard Rush* July 29, 1889.]

For—	Amount of claims as put forward by owner.
854 skins seized, and estimated balance of catch (1,246), at \$12.25 a skin .....	\$25,725.00
Guns, etc., seized .....	765.00
New papers .....	25.00
Legal expenses .....	250.00
Claim of owner, with interest at 7 per cent to date of payment .....	26,765.00

## TRIUMPH.

[Ordered out of Bering Sea by U. S. S. *Richard Rush* July 11, 1889.]

Balance of estimated catch of 2,500, at \$8 a skin .....	\$19,424.00
Legal and other expenses .....	250.00
Claim by owner, with interest at 7 per cent to date of payment .....	19,674.00

## BLACK DIAMOND.

[Seized by U. S. S. *Richard Rush* July 11, 1889.]

76 skins seized, at \$8 .....	\$608.00
2,024 skins, balance of estimated catch, at \$8 .....	16,192.00
Rifles, spears, etc., seized .....	110.00
New ship's papers .....	25.00
Legal and other expenses .....	250.00
Claim of owner, with interest at 7 per cent to date of payment .....	17,185.00

## LILY.

[Seized by U. S. S. *Richard Rush* August 6, 1889.]

333 skins seized, at \$8 .....	\$2,664.00
Balance of catch, 1,767, at \$8 .....	14,136.00
Spears and salt seized .....	101.00
New ship's papers .....	25.00
Legal and other expenses .....	250.00
Claim of owner, with interest at 7 per cent to date of payment .....	17,176.00

## ARIEL.

[Ordered out of Bering Sea by U. S. S. *Richard Rush* July 30, 1889.]

Balance of estimated catch of 2,000 (1,156), at \$8 .....	\$9,248.00
Legal and other expenses .....	250.00
Claim of owner, with interest at 7 per cent to date of payment .....	9,498.00

## KATE.

[Ordered out of Bering Sea by U. S. S. *Richard Rush* August 13, 1889.]

Balance of catch .....	\$10,960.00
Legal and other expenses .....	250.00
Claim of owner, with interest at 7 per cent to date of payment .....	11,210.00

*List and summary of the claims for compensation, etc.—Continued.*

## MINNIE.

[Seized by U. S. S. *Richard Rush* July 5, 1889.]

For—	Amount of claim as put forward by owner.
420 skins seized.....	\$3,360.00
Balance of catch.....	12,752.00
Guns and spears seized.....	98.00
Legal and other expenses.....	250.00
Claim of owner, with interest at 7 per cent to date of payment.....	16,460.00

## PATHFINDER.

[Seized by U. S. S. *Thomas Corwin* March 27, 1890.]

Seizure and detention from March 27, 1890, to March 29, 1890.....	\$2,000.00
Claim of owner, with interest at 7 per cent to date of payment.....	2,000.00

## CLAIMS FOR 1886.

Claimed by—		Amount claimed.
David Moore, master of Onward.....	Illegal arrest and imprisonment.....	\$4,000
Margotich, mate of Onward.....	do.....	2,500
Hans Guttornasen, master of Thornton.....	do.....	4,000
Harry Norman, mate of Thornton.....	do.....	2,500
Jas. Ogilvie, master of Carolena.....	do.....	2,500
Jas. Black, mate of Carolena.....	do.....	2,500
Total for 1886.....		18,000

## CLAIMS FOR 1887.

Warren, master of Dolphin.....	Sufferings and losses navigating four vessels from Unalaska to Sitka.	\$2,635
John Riely, mate of Dolphin.....	do.....	1,000
George P. Ferey, master of W. P. Sayward.....	do.....	2,000
A. B. Laing, mate of W. P. Sayward.....	do.....	1,000
Louis Olsen, master of Anna Beck.....	do.....	2,000
Michael Keefe, mate of Anna Beck.....	do.....	1,000
W. Petit, master of Grace.....	do.....	2,000
C. A. Lundberg, mate of Ada.....	do.....	2,000
Total for 1887.....		13,635
Total for 1886 and 1887.....		31,635
To be added to 1886, personal claims Captain Gaudin, of Ada.....		3,000
Amended total 1886 and 1887.....		34,635



*List and summary of the claims for compensation, etc.—Continued.*

## RECAPITULATION.

Year.	Vessel.	Amount claimed.	Total.
1886	Carolena .....	\$24,313.01	\$99,400.37
	Thornton .....	26,817.65	
	Onward .....	23,269.71	
	Favourite .....	7,000.00	
	Personal claims .....	18,000.00	
1887	W. P. Sayward .....	28,055.00	205,093.11
	Grace .....	38,142.57	
	Anna Beck .....	27,863.04	
	Dolphin .....	40,201.50	
	Ada .....	26,518.00	
	Alfred Adams .....	20,433.00	
	Triumph .....	10,250.00	
	Personal claims .....	13,635.00	
1889	Juanita .....	14,695.00	132,663.00
	Pathfinder .....	26,765.00	
	Triumph .....	19,674.00	
	Black Diamond .....	17,185.00	
	Lily .....	17,176.00	
	Ariel .....	9,498.00	
	Minnie .....	16,460.00	
	Kate .....	11,210.00	
1890	Pathfinder .....	2,000.00	439,161.48
	Total claims without interest .....		
	Costs of suit before Supreme Court, United States, in rescizure of W. P. Sayward .....		
			62,847.12

## TOTAL.

1886.	Vessels .....	\$81,400.37
	Personal claims .....	18,000.00
1887.	Vessels .....	191,463.11
	Personal claims .....	13,635.00
1889.	Vessels .....	132,663.00
1890.	Vessels .....	2,000.00
		439,161.48
W. P. Sayward costs .....		62,847.12
	Total .....	502,008.60
Extra for Juanita .....		3,002.66
Extra for Black Diamond (1886) .....		7,500.00
Extra for Ada .....		3,000.00
	Total .....	515,511.26
Henrietta .....		26,658.00
Amended total .....		542,169.26

*Mr. Uhl to Sir Julian Pauncefote.*DEPARTMENT OF STATE,  
*Washington, June 8, 1894.*

EXCELLENCY: Referring to the Department's note of the 2d instant, transmitting copy of a bill which had passed both Houses of Congress, and which was inadvertently stated to have been approved by the President, entitled "A bill supplementary to an act approved April 6, 1894, for the execution of the award rendered at Paris, August 15, 1893, by the Tribunal of Arbitration constituted under the treaty between the United States and Great Britain, concluded at Washing-

ton, February 29, 1892, in relation to the preservation of the fur seal," I have now the honor to inclose three copies of the act as approved by the President on June 5, 1894. It will be observed that the words "securing the adhesion of such power to the regulations aforesaid," occurring in the sixteenth and seventeenth lines of the bill sent you (second page), were not in the bill as passed, and do not appear in the approved act.

I have, etc.,

EDWIN F. UHL,  
*Acting Secretary.*

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[Inclosure.]

[PUBLIC—No. 76.]

An act supplementary to an act approved April sixth, eighteen hundred and ninety-four, for the execution of the award rendered at Paris, August fifteenth, eighteen hundred and ninety-three, by the Tribunal of Arbitration constituted under the treaty between the United States and Great Britain, concluded at Washington, February twenty-ninth, eighteen hundred and ninety-two, in relation to the preservation of the fur seal.

Whereas by the seventh article of the treaty between the United States and Great Britain, concluded at Washington, February twenty-ninth, eighteen hundred and ninety-two, in relation to the preservation of the fur seal, the high contracting parties agree to cooperate in securing the adhesion of other powers to such regulations as the arbitrators under said treaty might determine upon for that purpose; and

Whereas by an act of Congress approved April sixth, eighteen hundred and ninety-four, provision has been made by the United States for the execution of the regulations so determined upon and for the punishment of any infractions of said regulations: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the procedure and penalties provided by said act, in case of the violation of the provisions of said regulations, are hereby made applicable to and shall be enforced against any citizen of the United States, or person owing the duty of obedience to the laws or the treaties of the United States, or person belonging to or on board of a vessel of the United States who shall kill, capture, or pursue, at any time or in any manner whatever, as well as to and against any vessel of the United States used or employed in killing, capturing, or pursuing, at any time or in any manner whatever, any fur seal or other marine fur-bearing animal, in violation of the provisions of any treaty or convention into which the United States may have entered or may hereafter enter with any other power for the purpose of protecting fur seals or other marine fur-bearing animals, or in violation of any regulations which the President may make for the due execution of such treaty or convention.

Approved, June 5, 1894.

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*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
*Washington, July 21, 1894.*

EXCELLENCY: Referring to your interview in June last with the Secretary of the Treasury, relative to the request of the Makah Indians for permission to use their schooners as places of refuge while fishing

in Bering Sea and the waters thereof, I have the honor to inclose herewith copy of Mr. Carlisle's letter of the 19th instant, transmitting for your information copy of a letter from the Secretary of the Interior, dated June 27, 1894, and of its inclosure regarding this matter.

I have, etc.,

W. Q. GRESHAM.

*Sir Julian Pauncefote to Mr. Gresham.*

WASHINGTON, July 30, 1894.

SIR: With reference to the identic note which it is proposed that the Governments of Great Britain and of the United States should address to the maritime powers inviting their adhesion to the Bering Sea regulations, I have the honor to submit for your consideration the accompanying list of powers to whom it is suggested by my Government that the identic note should be addressed. I should be glad to be informed whether the list meets with the approval of your Government, and, if so, of the date on which you would propose that the identic note should be issued.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure.]

Argentine Republic, Austria-Hungary, Belgium, Brazil, Chile, China, Colombia, Costa Rica, Denmark, Dominican Republic, Ecuador, France, Germany, Greece, Guatemala, Hawaii, Haiti, Honduras, Italy, Japan, Mexico, Netherlands, Nicaragua, Peru, Portugal, Russia, San Salvador, Spain, Sweden and Norway, Turkey, Uruguay, Venezuela.

KIMBERLEY.

#### DRAFT IDENTIC NOTE TO THE MARITIME POWERS.

SIR: I have the honor to address you, under instructions from my Government, on the subject of the regulations established on the eastern side of the North Pacific Ocean, from the twenty-fifth degree of north latitude to the Bering Straits, for the proper protection and preservation of the fur-seal species.

Those regulations which are at present applicable only to the subjects or citizens of Great Britain and of the United States are prescribed by the award of the Tribunal of Arbitration constituted under Article I of the treaty concluded between those two powers at Washington on the 29th day of February, 1892. The preservation of the fur-seal species, however, being an object of interest and concern to the whole of the civilized world, the high contracting parties agreed, by Article VII of the above-mentioned treaty, to cooperate in securing the adhesion of other powers to such regulations as the arbitrators should deem necessary to carry out the purpose in view, having regard to the particular conditions of fur-seal hunting in the waters referred to.

The Governments of Great Britain and the United States of America have given effect by suitable legislation to the regulations prescribed by the award, and the time has therefore now arrived for inviting the adhesion of the other powers thereto. Accordingly, I have the



honor to transmit herewith a copy of the award setting out in substance the provisions of the treaty and prescribing the regulations in  
British  
question. I have also the honor to transmit a copy of the \_\_\_\_\_  
United States

Parliament  
act of \_\_\_\_\_ passed to give effect to those regulations as regards  
Congress  
British \_\_\_\_\_ subjects  
\_\_\_\_\_ vessels and \_\_\_\_\_.  
United States \_\_\_\_\_ citizens

It only remains to me, on behalf of my Government and in execution of my instructions, to invite the adhesion of your Government to the regulations prescribed by the award with a view to their application to the vessels and \_\_\_\_\_ of your country and to their enforcement by appropriate national legislation.  
citizens

My Government will be much gratified to learn that your nation is  
Great Britain \_\_\_\_\_ United  
willing to support the efforts made by \_\_\_\_\_ and the \_\_\_\_\_  
United States \_\_\_\_\_ Great  
States \_\_\_\_\_ in so beneficent a cause.  
Britain

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*Sir Julian Pauncefote to Mr. Gresham.*

WASHINGTON, *July 31, 1894.*

SIR: I have the honor to acknowledge the receipt of your note of the 21st instant, in which you were good enough to transmit for my information copies of communications from Mr. Secretary Carlisle and the Secretary of the Interior with regard to the request of the Makah Indians for permission to use their schooners as places of refuge while fishing in Bering Sea and the waters thereof.

I lost no time in forwarding copies of these communications to Her Majesty's principal secretary of state for foreign affairs, and as soon as I receive a reply from his Lordship I will inform you of the views entertained on this subject by Her Majesty's Government.

I have, etc.,

JULIAN PAUNCEFOTE.

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*Sir Julian Pauncefote to Mr. Gresham.*

WASHINGTON, *August 1, 1894.*

SIR: In accordance with instructions which I have received from the Earl of Kimberley, I have the honor to inclose herewith copy of an Order in Council of the 27th ultimo, providing for the special form of license to be granted to sealing vessels in the Bering Sea, and describing the distinctive flag to be flown by them.

I have etc.,

JULIAN PAUNCEFOTE.

[Inclosure.—Extract from the London Gazette of Friday, June 29, 1894.]

## ORDER IN COUNCIL.

*Bering Sea Award (No. 2), 1894.*

WINDSOR, 26th June, 1894.

At the Court at Windsor, the 27th day of June, 1894. Present: The Queen's Most Excellent Majesty, Earl Spencer, Lord Chamberlain, Lord Kensington.

Whereas by "the Bering Sea award act, 1894," it is enacted that Her Majesty the Queen in council may make orders for carrying into effect the provisions of the Bering Sea arbitration award set out in the first schedule to that act, and therein referred to as the scheduled provisions.

And whereas by Article three of "The Bering Sea award order in council, 1894," Her Majesty ordered that until arrangements for giving further effect to Articles four and seven of the said scheduled provisions should have been made between Her Majesty and the Government of the United States, the provisions contained in that article should have effect;

And whereas arrangements have been made for giving further effect to the said articles, and for regulating during the present year the fishing for fur seals in accordance with the said scheduled provisions; and it is expedient that effect should be given to those arrangements by an order in council under the said act:

Now, therefore, Her Majesty, in virtue of the powers vested in her by the said recited act, and of all other powers enabling her in that behalf, is hereby pleased by and with the advice of her privy council, to order, and it is hereby ordered, as follows:

1. On the application of the owner of any British sailing vessel intended to be employed in fur-seal fishing under the provisions of the recited act, a secretary of state may, if satisfactory evidence as required by the said article seven has been given by such owner of the fitness of the men to be employed by him on the said vessel in the said fishing, grant a special licence in the form in the schedule hereto, authorizing that vessel for the present year to fish for fur seals during the period in the manner and in the waters in which fur-seal fishing is allowed by the recited act, and the said special licence, when so granted, shall be carried on board the said vessel at all times while so employed.

2. Every British sailing vessel provided with a special licence under this order or the recited order, or which, under the recited order, is deemed to have been so provided, shall show under her national colours a flag, not less than four feet square, of two equal triangular pieces, yellow and black, joined from the right hand upper corner of the fly to the left hand lower corner of the luff, the part above and to the left to be black, and the part to the right and below to be yellow.

3. If, in the case of any vessel, there is any contravention of these regulations, the Secretary of State, whether any penalty has been recovered under the recited act or not, may revoke the special licence.

4. Article three of the recited order is hereby repealed, without prejudice, however, to any authorization given thereunder.

5. This order may be cited as "The Bering Sea award order in council (No. 2), 1894," and the recited order and this order may together be cited as "The Bering Sea award orders in council, 1894."

And the right honorable the Earl of Kimberley, K. G., and the most

honorable the Marquess of Ripon, K. G., two of Her Majesty's principal secretaries of state, and the Lords of the Admiralty, are to give the necessary directions herein as to them respectively appertain.

C. L. PEEL.

SCHEDULE.

*Form of special licence.*

[“The Bering Sea award act, 1894;” “The Bering Sea award orders in council, 1894.”]

*Special licence.*

Whereas the British sailing-vessel —— is intended to be employed during the present year in fishing for fur seals under the provisions of “The Bering Sea award act, 1894:”

And whereas A. B., the owner [or A. B. and others, owners] of the said vessel, have given satisfactory evidence of the fitness of the men who are to be employed on board the said vessel in the said fishing:

Now, therefore, in pursuance of the above-mentioned act and orders in council, I hereby authorize the said vessel for the present year to be employed in fur-seal fishing during the period of time in the manner and in the waters in which fur-seal fishing is allowed by the above-mentioned act.

This special licence is subject to revocation in case of any contravention of the above-mentioned act or orders in council.

Given under my hand this —— day of ——, one thousand eight hundred and ninety-four.

\_\_\_\_\_,  
*Secretary of State.*

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*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, August 6, 1894.

EXCELLENCY: I have the honor to say, in reply to your note of the 30th ultimo, that the list therewith submitted of the maritime powers proposed to be concurrently invited to adhere to the Bering Sea regulations meets with the approval of this Government.

In response to your further inquiry, I would suggest the 20th instant as a convenient date for the dispatch of the identic note to the enumerated powers.

I have, etc.

W. Q. GRESHAM.

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*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, August 16, 1894.

DEAR SIR JULIAN: I have your note of the 15th instant in relation to the proposed convention for the settlement of the Bering Sea claims. Referring to the doubts raised by Her Majesty's Government as to



the restrictive effect of the words "British subjects," in the fourth recital of Article I of my counterdraft, you state that you mentioned to Lord Kimberley I had given you the assurance that the Government of the United States "desired to satisfy all claims, the payment of which was justly due by international law;" and you then say that you have received a reply from His Lordship "to the effect that Her Majesty's Government take note of that assurance and waive their objection to the words in question."

While I am not of opinion that the language of your note is ambiguous, it is perhaps advisable, in order to avoid any possible misunderstanding hereafter, to say that in referring to international law it was not my intention either to enlarge or restrict the language of the proposed convention, but it was my intention to convey the idea that the Commissioners would, in construing its terms, be governed by the principles of international law. Such I understand to be your interpretation of my meaning, as expressed in your note; but out of abundant caution, I desire to avoid any possible ground for the inference that anything may have been said by me with the intention of modifying or controlling the convention by assurances given outside of it.

If convenient to you I shall be pleased to meet you at this Department at 11 o'clock a. m. to-morrow, for the purpose of signing the convention.

I remain, etc.,

W. Q. GRESHAM.

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*Mr. Gresham to Mr. Zeballos.*

DEPARTMENT OF STATE,  
*Washington, August 20, 1894.*

SIR: I have the honor to address you on the subject of the regulations established on the eastern side of the North Pacific Ocean from the thirty-fifth degree of north latitude to the Bering Straits for the proper protection and preservation of the fur-seal species.

Those regulations, which are at present applicable only to the subjects or citizens of the United States and of Great Britain, are prescribed by the award of the Tribunal of Arbitration constituted under Article I of the treaty concluded between the two powers at Washington on the 29th of February, 1892. The preservation of the fur-seal species, however, being an object of interest and concern to the whole of the civilized world, the high contracting parties agreed, by Article VII of the above-mentioned treaty, to cooperate in securing the adhesion of other powers to such regulations as the arbitrators should deem necessary to carry out the purpose in view, having regard to the particular conditions of fur-seal hunting in the waters referred to.

The Government of the United States has given effect by suitable legislation to the regulations prescribed by the award, and the time has therefore now arrived for inviting the adhesion of the other powers thereto. Accordingly, I have the honor to transmit herewith a copy of the award, setting out in substance the provisions of the treaty and prescribing the regulations in question. I have also the honor to transmit a copy of the acts of Congress passed to give effect to those regulations as regards United States vessels and citizens.

It only remains for me to invite the adhesion of your Government to the regulations prescribed by the award, with a view to their applica-

tion to the vessels and citizens of your country and to their enforcement by appropriate national legislation.

This Government will be much gratified to learn that the Government of the Argentine Republic is willing to support the efforts made by the United States and Great Britain in so beneficent a cause.

Accept, sir, etc.,

W. Q. GRESHAM.

Identic note sent to—	Acknowledged.	Identic note sent to—	Acknowledged.
Argentine legation .....	Sept. 4, 1894.	Japanese legation .....	Aug. 23, 1894.
Austro-Hungarian legation.....	Aug. 22, 1894.	Mexican legation .....	Aug. 21, 1894.
Belgian legation .....	Dec. 23, 1894.	Netherlands consulate-general.	Sept. 17, 1894.
Brazilian legation .....	Aug. 24, 1894.	Peruvian legation .....	Aug. 21, 1894.
Chilean legation .....	Aug. 21, 1894.	Portuguese legation .....	Oct. 15, 1894.
French embassy .....	Oct. 5, 1894.	Russian legation .....	Aug. 10-22, 1894.
German embassy .....	Oct. 29, 1894.	Spanish legation .....	Aug. 24, 1894.
Hawaiian legation .....	Aug. 22, 1894.	Swedish legation .....	
Italian embassy .....	Nov. 5, 1894.	Turkish legation .....	

Acknowledgments of receipt of identic note are as follows:

*Mr. Zeballos to Mr. Gresham.*

[Translation.]

ARGENTINE LEGATION.

*Washington, September 4, 1894.*

MR. SECRETARY OF STATE: I have had the honor to receive your excellency's communication of the 20th ultimo relative to the rule established on the east coast of the North Pacific Ocean, from parallel 35 north latitude to Bering Strait, for the protection and preservation of fur seals. Your excellency calls attention to Article VII of the treaty concluded between the United States of America and Great Britain on the 29th of February, 1892, whereby the high contracting parties agreed to endeavor to secure the adhesion of the other powers to the rules established by the arbitrators for the aforesaid purpose. Your excellency inclosed two copies of the decision and the declarations of the tribunal, and two copies of the law of Congress approved April 6, 1894. Your excellency concludes by courteously inviting the Government of the Argentine Republic to adhere to the rules established by the national legislation on the subject.

I shall be very happy to submit the note and the documents with which your excellency has honored me to the consideration of the Argentine Government.

It is proper for me to inform your excellency that the Argentine Congress will terminate its ordinary sessions, according to the national constitution, on the 30th day of the present month of September, so that if my Government decides to lay the matter before that body, as I do not doubt that it will, it can not be acted upon before the first session of 1895.

I renew to your excellency, Mr. Secretary of State, the assurances of my highest consideration.

ESTANISLAO S. ZEBALLOS.

*Mr. Mezey to Mr. Gresham.*

IMPERIAL AND ROYAL AUSTRO-HUNGARIAN LEGATION,  
Washington, August 22, 1894. (Received August 22.)

SIR: I have the honor to acknowledge the receipt of your note of the 20th instant on the subject of the regulations established on the eastern side of the North Pacific Ocean from the thirty-fifth degree of north latitude to the Bering Straits, for the protection and preservation of the fur-seal species.

In reply to it I have the honor to inform you, sir, that, in compliance with your desire, I have referred the matter to the Imperial and Royal Government for its adhesion to the regulations prescribed by the award of the Tribunal of Arbitration constituted under Article I of the treaty concluded between the United States and Great Britain the 29th of February, 1892.

I avail, etc.,

MEZEY.

*M. de Buisseret to Mr. Gresham.*

[Translation.]

LEGATION OF BELGIUM,  
Washington, December 23, 1894.

MR. MINISTER: Your excellency did me the honor to address to me, under date of the 20th of August last, the regulations for the protection of fur seals in Bering Sea, adding that the United States Government invited the Belgian Government to adhere thereto.

As no Belgian vessel ever visits the regions in question, my Government thinks—and it has instructed me so to inform your excellency—that there is no reason for proposing any special measure to the legislative body of Belgium.

It adds that it nevertheless renders sincere homage to the efforts that are made by the United States, together with Great Britain, in behalf of a cause which interests the entire world.

I beg your excellency to accept, etc., for the minister,

CONRAD DE BUISSERET.

*Mr. Mendonca to Mr. Gresham.*

LEGATION OF THE UNITED STATES OF BRAZIL,  
New York, August 24, 1894. (Received August 28).

SIR: I have the honor to acknowledge the receipt of your excellency's note and inclosures of the 20th instant, on the subject of the regulations established for the protection and preservation of the fur-seal species and inviting the adhesion of my Government to said regulations.

I will transmit to my Government the aforesaid documents for its action.

Accept, etc.,

SALVADORO MENDONCA.

*Mr. Gana to Mr. Gresham.*

LEGATION OF CHILE,  
Washington, August 21, 1894. (Received August 22.)

SIR: I have the honor to acknowledge the communication of your excellency, of yesterday's date, in which your excellency is pleased to express to me the wish that the Government of Chile should adhere to



the provisions for the preservation of the fur seal made by the Arbitration Tribunal created by the treaty of February 29, 1892, and that it should adopt the legislative measures requisite to that end.

In reply I hasten to inform your excellency that I forward without delay to my Government both your excellency's communication and the accompanying documents.

I avail, etc.,

DOMINGO GANA.

*Mr. Patenôtre to Mr. Gresham.*

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC  
IN THE UNITED STATES,  
Washington, October 5, 1894.

MR. SECRETARY OF STATE: In advising me, as you did by your note of August 20, of the enforcement of the new regulations adopted by the Washington and London cabinets in order to secure, in conformity with the decisions of the Paris Tribunal of Arbitration, the protection of fur seals in Bering Sea, you were pleased to inform me of the wish entertained by the Federal Government that the Government of the Republic should render these regulations obligatory upon French citizens. The minister of foreign affairs, to whom I transmitted your communication, informs me that the question has just been submitted to the competent authorities for examination. As soon as a decision shall have been reached in the matter, I shall have the honor to communicate it to you.

Be pleased to accept, Mr. Secretary of State the assurance of my very high consideration.

PATENÔTRE.

*Baron Saurma to Mr. Gresham.*

[Translation.]

IMPERIAL GERMAN EMBASSY,  
Washington, October 29, 1894.

MR. SECRETARY OF STATE: Pursuant to instructions, I have the honor to inform your excellency, in reply to your note of the 20th of August last, that, upon investigation, it is shown that German shipping has never taken part in seal hunting in Bering Sea, and that under these circumstances the Imperial Government does not consider it sufficiently important to resort to imperial legislation for the protection of the seals in the manner proposed.

The Imperial Government, however, will gladly take occasion, through public notices, and by executive means, to issue warnings to its people interested in shipping, in conformity with the laws enacted by Great Britain and the United States.

Accept, etc.,

SAURMA.

*Mr. Hastings to Mr. Gresham.*

HAWAIIAN LEGATION,  
Washington, August 22, 1894.

SIR: I have the honor to acknowledge the receipt of your communication of the 20th instant, on the subject of the regulations established on the eastern side of the North Pacific Ocean from the thirty-fifth

degree of north latitude to the Bering's Straits for the protection and preservation of the fur seal, and inviting the adhesion of the Government of Hawaii to the regulations prescribed by the award of the Tribunal of Arbitration concluded at Paris on August 15, 1893, between the Government of the United States and that of Great Britain.

In reply thereto, I beg to inform you that a copy of your communication, and the inclosures therewith, will at once be forwarded to my Government, and I venture to predict that the earliest possible action will be taken by the authorities at Honolulu in issuing the necessary orders to the masters of Hawaiian vessels and to citizens of the Hawaiian Republic to observe the regulations prescribed, and that every aid will be given the high contracting parties by legislation and otherwise, looking to the protection of the fur seal in the territory described.

With renewed assurances, etc.

FRANK P. HASTINGS.

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*Baron Fava to Mr. Gresham.*

[Translation.]

EMBASSY OF H. M., THE KING OF ITALY,  
Washington, November 5, 1894.

MR. SECRETARY OF STATE: His Majesty's minister of foreign affairs, to whom I hastened to communicate the contents of the note of your honorable Department of the 30th of August last, instructs me to thank your excellency for this communication, and at the same time to announce the adhesion of the King's Government to the rules established by agreement between the Federal Government and that of Her Britannic Majesty for the regulation of seal fishing in Bering Sea.

I therefore have the honor, in obedience to the instructions which I have received, to communicate the foregoing to your excellency, and I avail myself, at the same time, of this occasion to renew to you, Mr. Secretary of State, the assurances of my highest consideration.

FAVA.

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*Mr. Miyaoka to Mr. Gresham.*

LEGATION OF JAPAN,  
Washington, August 23, 1894. (Received August 24.)

SIR: I have the honor to acknowledge the receipt of your communication dated the 20th instant and having reference to the regulations for the preservation of the fur-seal species agreed to by the Governments of the United States and Great Britain in conformity with the award of the Tribunal of Arbitration between those two powers held at Paris. I have also the honor to acknowledge the receipt of the copies of the award and of the acts of Congress passed to give effect to the regulations embodied in it, which you have been good enough to transmit with your communication.

With reference to the invitation which you convey to the Imperial Government to give its adhesion to these regulations for the protection and preservation of fur seal, I beg to say that I shall hasten to take advantage of the earliest opportunity to inform my Government of the contents of your communication, in order that a formal reply may be given as soon as possible.

Be pleased to accept, etc.,

TSUNEJIRO MIYAOKA.

*Mr. Romero to Mr. Gresham.*

[Translation.]

LEGATION OF MEXICO,

*White Plains, N. Y., August 21, 1894. (Received August 23.)*

MR. SECRETARY: I have the honor to acknowledge the receipt of your note of the 20th instant, with the inclosed documents, in which you request, in virtue of the treaty signed at Washington February 29, 1892, between the United States of America and Great Britain, the adhesion of the Government of Mexico to the regulations prescribed by the Tribunal of Arbitration organized in virtue of Article I of said treaty, applicable to the eastern side of the North Pacific Ocean from the thirty-fifth degree of north latitude to Bering Straits, for the protection and preservation of the fur seals, and to prevent their extermination by hunters in that region.

The signatory powers to this treaty propose to obtain the adhesion of the other nations to the regulations prescribed by the Tribunal of Arbitration, which have hitherto been binding upon the two contracting nations only, in order to prevent the extermination of the seals, a matter which concerns the civilized world, and to this end you request the adhesion of the Government of Mexico.

I have the honor to inform you in reply that I have transmitted to my Government a copy of your note, and of each of the inclosed documents, in order that, being informed of them and of the circumstances of the case, they may decide as they may deem convenient.

Accept, etc.,

M. ROMERO.

*Mr. Planten to Mr. Gresham.*

CONSULATE-GENERAL OF THE NETHERLANDS,

*New York, September 17, 1894. (Received September 19.)*

SIR: In reply to your letter of August 20 last, on the subject of the regulations established on the eastern side of the North Pacific Ocean from the thirty-fifth degree of north latitude to the Bering Straits for the proper protection and preservation of the fur-seal species, I am instructed to inform your excellency that Her Majesty's Government is taking the matter in consideration and will inform your Government as soon as possible of the result of its consideration.

Accept, etc.,

J. R. PLANTEN.

*Mr. Yrigoyen to Mr. Gresham.*

LEGATION OF PERU,

*Washington, August 21, 1894. (Received August 21.)*

SIR: I have the honor to acknowledge the receipt of your favor of yesterday's date, and the documents to which you refer.

In your favor you are pleased to inform me that agreeably to the provision of Article VII of the treaty of arbitration concluded between the United States and Great Britain, February 29, 1892, the United



States seek to obtain the adhesion of the other powers to the regulations which the arbitrators consider necessary for the preservation of the fur seal on the east side of the North Pacific Ocean from the thirty-fifth degree of north latitude to Bering Straits.

For that purpose you are pleased to express to me the desire that my Government should adhere to said regulations, by means of adequate legislation.

In reply, I have the pleasure to inform you that I will forward to my Government by the next steamer your highly esteemed note and the documents inclosed, and that as soon as I shall receive his reply I will communicate it to your Department.

I avail, etc.,

JOSE M. YRIGOYEN.

*Mr. Da Costa Duarte to Mr. Gresham.*

[Translation.]

LEGATION OF PORTUGAL,  
Washington, October 15, 1894.

MR. SECRETARY: The Government of his very faithful majesty having decided to give its adherence to the regulations prescribed by the Tribunal of Arbitration of Paris which, for the effective protection and preservation of the fur seal must be applied to the eastern side of the North Pacific Ocean from the thirty-fifth degree of north latitude to Bering Straits, agreeably to the wishes expressed in the note which your excellency did the honor to address to me on the 20th of last August, has instructed me to notify your excellency thereof.

The Government of His Majesty, however, desires that it be distinctly and clearly established that its adherence is restrictive simply as regards the taking of the fur seal, and in the waters comprised within the limits traced by the Tribunal of Arbitration of Paris, this act of the Government implying no recognition on its part of any principle tending to regulate fishing outside of the territorial waters of each nation.

Be pleased to accept, etc.,

IGNACIO DA COSTA DUARTE.

*Prince Cantacuzene to Mr. Gresham.*

[Translation.]

NEW LONDON, CONN., August 10-22, 1894.

MR. SECRETARY OF STATE: I have had the honor to receive the note which you were pleased to address me on the 20th of August instant, transmitting to me the declarations and the award of the Tribunal of Arbitration in the matter of the preservation of fur seal as well as the legislative measures taken by the United States to the end of assuring the efficacy of the Paris regulations.

Resting on the seventh article of your treaty with England of February 29, 1892, you are pleased to address to me at the same time the invitation of the Federal Government to the Imperial Government to adhere to the arbitral decisions of Paris, and to cause them to be respected by Russian subjects and vessels, by taking to such end the necessary legislative steps.

I will make it my prompt duty to transmit to my Government the communication you have addressed to me on this subject, and I reserve informing you of the reply of the Imperial Government when it shall reach me.

I think that I can, however, at once inform you that Russia, having to the same degree as the United States an interest and an imperative duty to equally assure in her waters the preservation of fur seal, the Imperial Government could not give its adhesion to the Paris regulations and to the legislative measures adopted in consequence thereof at Washington and at London unless the totality of those measures be applied likewise to all the waters of the Pacific situated to the north of the thirty-fifth degree of north latitude.

Be pleased, etc.,

CANTACUZENE.

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*Mr. Muruaga to Mr. Gresham.*

LEGATION OF SPAIN,

*Washington, August 24, 1894. (Received August 25.)*

The undersigned, envoy extraordinary and minister plenipotentiary of Spain, has the honor to inform the honorable Secretary of State that he has received his note of the 20th instant, relative to the judgments pronounced by the Tribunal of Arbitration at Paris in the question submitted to it by the Government of the United States and that of Great Britain, concerning the taking and preservation of fur seals in Bering Sea, and to the invitation addressed to the Government of Spain to adhere to the decisions of said tribunal.

The undersigned minister has informed the Government of His Majesty of the desire expressed in the said note, and has transmitted to it at the same time the documents inclosed therein, and as soon as an answer shall be received he will hasten to transmit it to the honorable Secretary of State.

The undersigned avails, etc.,

E. DE MURUAGA.

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*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,

*Washington, August 21, 1894.*

EXCELLENCY: Referring to our verbal communications of a recent date, I have now the honor formally to acknowledge the receipt of your note of the 7th of June last, in which you propose in behalf of Her Majesty's Government the establishment of a mixed commission for the purpose of "verifying and adjusting the claims for compensation for the seizure of British sealing vessels in Bering Sea."

While no serious difficulty is anticipated in settling and determining the claims by means of a mixed commission, it is a matter of interest to both Governments that they should, if possible, be disposed of in a simpler and less expensive way. Proceedings by a mixed commission, while always more or less formal and cumbersome, are, like all other processes of litigation, necessarily attended with expense, not infrequently considerable in amount, as well as with delay.

In the present case the award and findings of the Tribunal of Arbi-

tration at Paris have, to a great extent, determined the facts and the principles on which the claims should be adjusted, and in the course of the negotiations for a mixed commission, they have been subjected by both Governments to a thorough examination, both upon the principles and the facts which they involve.

Under these circumstances the President, after full consideration of the whole subject, has reached the conclusion that it may be practicable as well as advantageous to effect a direct settlement of the claims by the payment of a lump sum in full satisfaction of all demands for damages against the United States growing out of the controversy between the two Governments as to the fur seals in Bering Sea; and to this end I am instructed by the President to propose the sum of \$425,000.

This proposition, if it should prove to be acceptable to Her Majesty's Government, is to be understood as having been made subject to the action of Congress on the question of appropriating the money. The President can only undertake to submit the matter to Congress at the beginning of its session in December next, with a recommendation that the money be appropriated and made immediately available for the purpose above expressed; and if at any time before the appropriation is made your Government shall desire, it is understood that the negotiations on which we have for some time been engaged for the establishment of a mixed commission will be renewed.

I have, etc.

W. Q. GRESHAM.

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*Sir Julian Pauncefote to Mr. Gresham.*

WASHINGTON, August 21, 1894.

SIR: I have the honor to acknowledge the receipt of your note of this date on the subject of our recent negotiations for the adjustment, by means of a mixed commission, of the claims of Great Britain against the United States in respect of the seizure of British sealing vessels by United States cruisers in Bering Sea.

You state that the President, after full consideration, is of opinion that it would be in the interest of both Governments to effect the direct settlement of the claims by the payment of a lump sum, in order to avoid the delay and expense of a mixed commission, and that you have been instructed to propose the sum of \$425,000.

You also state that the proposal is made subject to the necessary appropriation by Congress, to which it would be submitted at the beginning of its session in December next, with a recommendation that the money be made immediately available for the purpose above mentioned.

You add that if at any time before the appropriation is made Her Majesty's Government shall desire it the negotiations for the establishment of a mixed commission shall be resumed.

I have the honor to state in reply that Her Majesty's Government concur in the views of the President as to the expediency of effecting a settlement by the method proposed, and that they are indeed so fully sensible of the great advantages presented to both Governments by that course that they are willing to accept the sum offered, coupled with the assurance of prompt payment, although the amount is much



below their estimate of the compensation, which might fairly be awarded by a mixed commission.

It should be understood, therefore, that if the negotiations for a mixed commission should be resumed the acceptance of your proposal shall in no way prejudice the claimants in the further prosecution of their demands.

It only remains for me to express my gratification at this amicable solution of the last subject of discussion in the long Bering Sea controversy.

I have, etc.

JULIAN PAUNCEFOTE.

*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
*Washington, January 23, 1895.*

EXCELLENCY: I have the honor to transmit to you an official statement of the American pelagic fur-seal catch of 1894, taken from the records of the custom-houses at the ports of San Francisco, Port Townsend, and Astoria, for transmission to your Government in compliance with Article V of the Bering Sea arbitration award.

It will be observed by reference to this statement that in many instances the latitude and longitude have been omitted. In explanation of this omission I am informed by the Secretary of the Treasury that the collector of customs at San Francisco has reported the masters of the vessels deposed under oath, that they cleared without notice of the pending award, and consequently were ignorant of this requirement.

In addition to the number of seals officially entered as mentioned in the statement above referred to, namely, 26,095, information obtained from the annual sales of fur-seal skins in London indicates that there were, in fact, sent to London about 139,000 skins, Asiatic and American, taken in the North Pacific Ocean and Bering Sea. Adding to this the skins estimated as retained in the United States, about 3,000, the total catch would appear to be about 142,000. The number of skins entered at Victoria, according to a report transmitted by the United States consul, is 95,048. The total of the American and British entries therefore is 121,143, being about 20,000 skins less than the total catch as appears from the statistics of the London sales and estimates of skins retained in this country.

Presumably these 20,000 skins were transshipped by American or British vessels at Yokohama, reaching London via Suez Canal. The Secretary of the Treasury reports that there is no record of any transshipments received in the United States ports, except as regards 6,760 skins which arrived in the port of San Francisco and appear in our official returns herewith transmitted. These skins were presumably taken off the Japanese and Russian coasts. All of the skins of which the sex is indicated in the accompanying statement were carefully examined by an inspector at the time of their entry.

I have the honor to request the following official information from your Government as to the pelagic catch of fur seals for the years 1893 and 1894:

1. The total number of seals taken by British vessels in the North Pacific Ocean and Bering Sea, both on the Asiatic and American sides.

2. The total number of skins landed at British ports by said vessels.
3. The total number transshipped in Japanese or Russian ports, including any that may have been ultimately entered at Victoria.
4. The total number of skins landed as entered at Victoria by American vessels.
5. A report as to the sex of all skins taken in Bering Sea and the North Pacific Ocean.
6. Location of the place of catch by latitude and longitude.
7. The names of all vessels employed, tonnage, number of the crew, and number of seal hunters, indicating whether whites or Indians.

I have the honor to further request that your Government inform me whether the pelagic skins taken by its vessels were examined as to sex by expert inspectors, as was done in the case of skins entered in United States ports.

I have, etc.,

W. Q. GRESHAM.

*Summary of pelagic seal catches for 1893 and 1894, based on the official returns from ports of entry.*

Year.	Nationality.	British Columbia and Northwest coasts.	Bering Sea.	Japan coast.	Russian coast.	Locality undetermined.	Total.	Grand total.
1893..	American .....	28,613	(Modus vivendi in operation.)	29,173	11,955	8,432	8,342 69,741	..... * 78,083
	Canadian .....							
1894..	American .....	12,398	5,160	1,500	201	6,836	† 26,095	.....
	Canadian .....	11,703	26,425	49,483	7,437	.....	95,048	† 121,143
	Total ...	24,101	31,585	50,983	7,638	6,836	.....	.....

\* Notes concerning catch for 1893.

† Notes concerning catch for 1894.

The United States consul at Victoria states (Consular Reports No. 161, p. 279) that American schooners in 1893 transshipped at Yokohama and Hakodadi between 17,000 and 18,000 skins. These skins, added to those which in all probability were transshipped by British Columbia vessels on the Asiatic coast, and including the estimated number retained in America for treatment, would swell the total catch to about 109,000. The accuracy of these figures is corroborated by the fact that the trade sales of London (all seal skins are sold there) account for the disposition of 109,669 skins in 1893.

The catch of 6,836, noted in column headed "Locality undetermined," were skins, 76 of which were landed at Astoria without statement as to place of capture; 641 were transshipped at Unalaska, and the remaining 619 were transshipped from Yokohama. All were entered and recorded in American ports of entry, and they are quite certainly a mixture of Northwest coast and Japan skins.

It has been ascertained from the sales of seal skins in London that about 125,000 skins were actually sold and about 14,000 withheld for future sale in 1894. In addition thereto it is estimated that about 3,000 skins were retained in this country and elsewhere for treatment. It thus appears that about 142,000 is a figure much more closely representing the number of skins taken in 1894 than the official returns of 121,143. The balance, about 20,000 skins, was probably shipped to London via Suez Canal from the Asiatic Coast.

*Number of schooners reported as having taken skins.*

Year.	American.	Canadian.	Total.
1893 .....	28	* 56	84
1894 .....	35	* 60	95

\* Indian canoe catch counted as one vessel. In destructive effects the canoe catch is about equal to three average schooner catches.

*Number of schooners reported as having made catches in Bering Sea.*

Year.	American.	Canadian.	Total.
1893 * .....	.....	.....	.....
1894 .....	10	27	37

\* Modus vivendi was in operation.

*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, January 23, 1895.

EXCELLENCY: I have the honor to inform you for communication to your Government, of the deep feeling of solicitude on the part of the President of the United States with regard to the future of the Alaskan seal herd as disclosed by the official returns of seals killed at sea during the present season in the North Pacific Ocean, filed in the respective custom-houses of the United States and British Columbia, and by reliable estimates of skins shipped to London from the Asiatic coast by way of the Suez Canal.

It would appear that there were landed in the United States and Victoria 121,143 skins, and that the total pelagic catch, as shown by the London trade sales and careful estimates of skins transshipped in Japanese and Russian ports, amounts to about 142,000, a result unprecedented in the history of pelagic sealing. It would further appear that the vessels engaged in Bering Sea, although only one-third of the total number employed in the North Pacific, in four or five weeks killed 31,585 seals, not only over 8,000 more than were killed in Bering Sea in 1891 (the last year the sea was open) but even more than the total number killed during the four months on the American side of the North Pacific this season.

This startling increase in the pelagic slaughter of both the American and Asiatic herds has convinced the President, and it is respectfully submitted can not fail to convince Her Majesty's Government, that the regulations enacted by the Paris Tribunal have not operated to protect the seal herd from that destruction which they were designed to prevent, and that, unless a speedy change in the regulations be brought about, extermination of the herd must follow. Such a deplorable result should if possible be averted.

The experience of the past year under the regulations has demonstrated that not alone are the United States and Great Britain deeply interested in the preservation of the seal herd; Russia and Japan



have interests commercially almost as important. Any new system of regulations of necessity should embrace the whole North Pacific Ocean from the Asiatic side to the American side, and should be binding upon the citizens and subjects alike of all of these countries.

In order to add to our scientific knowledge upon this question as to the habits of the seal, its feeding grounds, and the effect of pelagic sealing upon the herd, and other similar questions, the President deems it advisable to suggest to Her Majesty's Government, and to the Governments of Russia and Japan, that a commission be appointed, consisting of one or more men from each country, eminent for scientific knowledge and practical acquaintance with the fur trade. This commission should visit the Asiatic side of the North Pacific as well as the American, and also the islands which the seals frequent, and report to their respective Governments as to the effects of pelagic sealing on the herd and the proper measures needed to regulate such sealing so as to protect the herd from destruction and permit it to increase in such numbers as to permanently furnish an annual supply of skins.

I am directed by the President to propose for the consideration of your Government, and the Governments of Russia and Japan, the appointment of such a commission, and I am further directed to suggest that during its deliberations the respective Governments agree upon a *modus vivendi*, as follows:

That the regulations now in force be extended along the line of the thirty-fifth degree of north latitude from the American to the Asiatic shore, and be enforced during the coming season in the whole of the Pacific Ocean and waters north of that line. Furthermore, that sealing in Bering Sea be absolutely prohibited pending the report of such commission.

Inasmuch as the sealing season will shortly commence, and the fleet will leave the western coast for the sealing grounds, I beg to suggest the necessity of speedy action in regard to this proposition.

I have, etc.,

W. Q. GRESHAM.

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*Mr. Foster to Mr. Gresham.*

AGENCY OF THE UNITED STATES,  
*Paris, August 17, 1893.*

SIR: In fulfillment of what I regard as my duty before terminating my services as agent, to wit, to place my Government in possession of all information I have acquired which may be useful in future negotiations or action connected with the fur-seal arbitration, I direct attention to the subject of the British claims for damages on account of the seizure of certain vessels in Bering Sea in 1886, 1887, and 1889.

It will be seen from the decision of the tribunal that a finding of facts, agreed upon by counsel, was rendered in accordance with Article VIII of the treaty. This finding will be found to relate entirely to the facts of the seizures and, as agreed to by counsel, did not in any manner involve the question of liability or the value or ownership of the vessels. By reference to Protocol XXX, of May 31, it will be seen that the British Government has withdrawn all claim for damages under Article V of the *modus vivendi* of 1892. In further confirmation of this I inclose the statement of the British counsel before the tribunal on the subject.

In view of these facts it would seem that the only question of damages open for the consideration of the two Governments was that arising out of the seizure of vessels in Bering Sea. The claims on this account as presented by the British Government will be found in the Schedule of Claims annexed to and bound with the British Case, and on page 315 of the British Counter Case.

The defense of the United States, so far as it was thought necessary to make one under Article VIII of the treaty, will be found in the United States Counter Case, pages 129 to 135, and the evidence there cited, contained in the appendix thereto, as also in the printed United States Argument, pages 215 to 227.

The total amount of the British claim, as presented at page 60 of the Schedule of Claims, is \$439,171, of which \$357,353 consist of a claim for prospective earnings, which I suggest can not be properly asserted, for the reasons set forth in the United States Argument.

It will appear from an examination of the evidence in the Case and Counter Case of the United States that most of the vessels appear in reality to be the property of American citizens. Further and more searching investigation may show that others of the vessels were the property of our citizens. In this connection, I refer to a correspondence at Paris had by me with the British agent in reference to the citizenship of Boscowitz, owner or mortgagee of several of these vessels.

I also inclose a memorandum in regard to the value of several of the seized vessels, which may be of service in the further examination of these claims.

Mr. Robert Lansing, associate counsel in the arbitration, made a visit in 1892 to Victoria and San Francisco for the purpose of collecting evidence in relation to this branch of the case, and I have no doubt he would cheerfully go to Washington at any time, if you or the person having charge of the Government's interests in this matter should think it desirable to confer with him.

I am, etc.,

JOHN W. FOSTER.

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[Inclosure 1.—Extract from British report of proceedings of Tribunal of Arbitration, May 31, 1893, pp. 1197-1198.]

Sir CHARLES RUSSELL: \* \* \* I wish to relieve, and am glad to relieve, the tribunal of one question at all events, and that is the question of damages under Article V of the *modus vivendi* of 1892, which is also remitted to this tribunal. This, sir, will not need any troublesome reference, because it is an admission I am going to make. At page 216 of the printed argument of the United States (you need not, sir, trouble to refer to it, if I may be permitted to say so, because it is not a point of difference between us—it is a matter I am clearing out of the way) the United States give up any claim to damages under that treaty; and I have to say, on the part of Great Britain, and speaking with authority in the matter, that although they had under the earlier *modus vivendi* to pay a very large sum for damages to their Canadian sealers—a sum, I think, exceeding \$100,000—looking to the fact, nevertheless, that under the *modus vivendi* in question a great many, at least, if not all of the sealers who would have resorted to the eastern part of Bering Sea had made catches of seals in other parts of the ocean, and although I think it might be argued that this tribunal is required by Article V to give damages on the basis of a limited catch or catches which might have been taken in Bering Sea—in all the cir-



circumstances of the case Great Britain does not desire to press that view upon the tribunal, and, therefore, will ask for no finding for damages upon and under that fifth article of the *modus vivendi*; but it probably will be convenient in the award which the arbitrators may think proper to make, to state upon its face that both the United States and Great Britain have abandoned any claim for damages under that head.

The PRESIDENT. You are agreed also as to that, Mr. Phelps?

Mr. PHELPS. Yes.

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[Inclosure.]

*Mr. Tupper to Mr. Foster.*

PARIS, May 26, 1893.

DEAR MR. FOSTER: Referring to the suggestion advanced on page 130 of the United States counter case, that some of the vessels for the seizure of which damages were claimed by Her Majesty's Government were owned by citizens of the United States, and to the promise made to the tribunal by the Attorney-General on the 11th of May, that, if possible, the arbitrators should not be troubled with the consideration of the subject, I now write to inquire whether we can agree upon the facts in dispute in order that the Attorney-General's suggestion should be made effective.

As regards Mr. Franks, I have not yet complete evidence. As regards Mr. Boscowitz, this gentleman denies that he is the owner of the vessels, and further denies that he is an American citizen. And, as at present advised, I shall have to ask the tribunal so to hold, unless, of course, it is possible, as I hope it may be, for me to come to an arrangement with you upon this matter.

Your suggestion being first made in your counter case, it was not possible to produce in court evidence on the point in the ordinary way; but Mr. Boscowitz happens at the present moment to be in Paris, and I would suggest that a fair way of eliciting the actual facts would be that we should examine and that you should cross-examine Mr. Boscowitz in the presence of a shorthand writer. His evidence might then be laid before the arbitrators as material for a decision, if this should be thought necessary by either side.

Yours, very truly,

CHARLES H. TUPPER.

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*Mr. Foster to Mr. Tupper.*

AGENCY OF THE UNITED STATES,  
Paris, May 27, 1893.

DEAR MR. TUPPER: I have the honor to acknowledge the receipt of your communication of the 26th instant, in which you inform me that a Mr. Boscowitz "happens at the present moment to be in Paris," and, in view of certain proofs adduced in behalf of the United States respecting him, you suggest that he be examined and cross-examined here for the purpose of submitting his evidence to the arbitrators as material for a decision on their part.

An examination of the treaty under which the pending arbitration is constituted must satisfy you that I have no power or authority to accede to your request. The manner in which evidence is to be sub-



mitted to the arbitrators is precisely fixed by the terms of the treaty, and no opportunity or method for such submission is therein afforded to either party, except through its respective case and counter case.

Besides, it would hardly seem reasonable to allow one party, after the case, counter case, and printed argument had been submitted, and while the oral argument was in progress and near its close, to examine an important witness on its behalf, when the witnesses of the other party, whose testimony might be material to refute his statements, were 6,000 miles away, and who could not be reached in time to submit their testimony to the tribunal.

Referring to your inquiry as to whether we can agree upon the facts in dispute in order that the suggestion of Sir Charles Russell might be made effective, I have pleasure in saying that I am prepared to concur with you in any statement of facts proper to be considered by the tribunal and warranted by the evidence now legitimately before that body.

In closing I beg to remind you that "the suggestion \* \* \* that some of the vessels for the seizure of which damages were claimed by Her Majesty's Government were owned by citizens of the United States" was not for the first time advanced by the United States in its counter case, as will be seen by references to the case of the United States, App., Vol. II, p. 505.

I am, etc.,

JOHN W. FOSTER.

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[Inclosure 3.]

*Memoranda as to ownership and value of vessels for which damages are claimed by the British Government, with accompanying envelope.*

*Carolina* (p. 1 of Schedule to Claims, British case).—Was owned by A. J. Bechtel, American citizen (United States Argument, p. 219). Upon the question of American ownership of vessels, see, generally, United States case, Vol. II, p. 497. Mortgaged to A. J. Bechtel for \$1,000 (U. S. C. C., p. 261).

British Government claims \$125 per ton for this vessel (Schedule of Claims, p. 1).

That this is excessive, see United States Counter Case, pp. 247 and 248, where it appears that the *Marvin*, a fine boat, sold in 1892 for \$58 per ton. A survey in 1885 shows her value to have been \$3,000. (See report on survey on *Carolina*, envelope A.

As to value of sealing vessels and equipments, generally, see, report of United States Special Agent Henry, United States Counter Case, p. 245.

*Thornton* (p. 6).—Owned one-half by Boscowitz, American (United States Argument (p. 218), and in addition to references there given see also United States Counter Case, p. 314).

Value: British Government alleges 78 tons burden and value of \$6,000, or \$76.92 per ton. Her actual registered tonnage was 29.36 (U. S. C. C., pp. 339, 258).

NOTE.—That all calculations for value are made on net registered tonnage. See *ibid.*, p. 350, per Turner.

Mortgaged to Boscowitz for \$4,000 (U. S. C. C., p. 261). Actual value, at \$76.92 per ton (which is probably excessive), \$2,258.37.

*Onward*, (p. 10).—Maj. Wm. H. Williams says that Capt. Alexander

McLean, sealing captain of San Francisco, has stated to him that he, McLean, was part owner of this vessel. Major Williams believes that Captain McLean would be willing to make an affidavit to this effect.

Value: Alleged tonnage, 94; value claimed, \$4,000; i. e., \$42.55 per ton; actual tonnage, 32.20 (U. S. C. C., p. 339); actual value, at \$42.55 per ton, \$1,497.76.

*W. P. Sayward* (p. 17).—Owned by Boscowitz (see mem. for Thornton). Mortgaged in 1887 to Boscowitz for \$2,500 (U. S. C. C., p. 261).

*Grace* (p. 20).—Owned by Boscowitz (see mem. for Thornton). Mortgaged to Boscowitz in 1886 for \$6,000 (U. S. C. C., p. 261).

Value: Alleged tonnage, 182; alleged value, \$12,000; i. e., value per ton, \$65.93; actual tonnage, 76.87; actual value (at \$65.93 per ton), \$5,068.03 (U. S. C. C., p. 339); appraised value, \$10,404 (U. S. C. C., p. 339); amount realized at sale, \$1,525 (U. S. C. C., p. 339). The *Grace* was a steamer (U. S. C. C., p. 258). That the appraised value was considered too high at the time, see Senate Ex. Doc. No. 106, Fiftieth Congress, second session, p. 72. That no steps were taken by owners of *Grace*, *Anna Beck*, *Dolphin*, or *Ada*, to obtain their release, see *ibid.*, p. 80.

*Anna Beck* (p. 24).—Owned by Boscowitz (see mem. for Thornton). Mortgaged in 1886 to Boscowitz for \$6,000 (U. S. C. C., p. 261).

Value: Appraised value, \$2,600; sold for \$907; value claimed, \$8,000 (U. S. C. C., p. 339); registered tonnage (U. S. C. C., p. 258), 40.38.

(In confirmation of the actual tonnage given by the United States, and hereinafter mentioned, of *Grace*, *Anna Beck*, *Dolphin*, and *Ada*, see Senate Ex. Doc. No. 106, Fiftieth Congress, second session, p. 72, where it is stated from a wholly independent source that the total tonnage of these four vessels is 249; this tallies closely with that now alleged by the United States.)

As to appraised value, see under *Grace*. Her appraised value was accepted by owner for purposes of bonding (Senate Ex. Doc. No. 106, Fiftieth Congress, second session, p. 76). She was built in 1865 (see certificate of enrollment). Now called the *James G. Swan* (envelope A).

*Dolphin* (p. 28).—Owned by Boscowitz (see mem. for Thornton).

Value: Mortgaged in 1886 to Boscowitz for \$6,000 (U. S. C. C., p. 261); alleged tonnage, 174 tons; alleged value, \$12,000; i. e., \$68.96 per ton; actual tonnage, 60.10; actual value, at \$68.96 per ton, \$4,144.49 (U. S. C. C., p. 339); a steamer (U. S. C. C., p. 258); appraised value, \$7,750 (U. S. C. C., p. 339); sold for \$1,225 (*ibid.*). (See remarks under *Grace* as to appraised value.)

*Alfred Adams* (p. 32).—Owned by A. Frank, American (United States) Argument, p. 219.)

*Ada* (p. 34).—Value: Tonnage alleged, 68; value alleged, \$7,000, i. e., \$103 per ton. This valuation is excessive (see value of *Marrin*, U. S. C. C., pp. 248 and 257.) Actual tonnage, 56.95 (U. S. C. C., p. 339); appraised value, \$2,900; sold for \$1,900 (U. S. C. C., p. 339).

(See remarks under *Grace* as to appraised value.)

That her appraisement was generally accepted, see Senate Ex. Doc. No. 106, Fiftieth Congress, second session, p. 78. Became in 1888 the *James Hamilton Lewis*; was seized by Russia for raiding Copper Island in 1891.

*Lily* (p. 50).—Owned by A. Frank, American (United States) Argument, p. 219.)

*Black Diamond* (p. 48).—Owned by A. Frank, American (United States) Argument, p. 219.)

*Pathfinder* (pp. 40 and 57).—Owned by A. J. Bechtel, American (United States) Argument, p. 219.)

## MOSQUITO TERRITORY.<sup>1</sup>

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*Mr. Seat to Mr. Gresham.*

[Telegram.]

BLUEFIELDS, NICARAGUA, *January 25, 1894.*

Honduras invading at Cape Gracias. Lives and millions property American citizens unprotected. Appeal for man-of-war to Bluefields Mosquito Reservation, at once.

SEAT, *Consular Agent,*  
(and fifty citizens of the United States).

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*Mr. Gresham to Mr. Baker.*

DEPARTMENT OF STATE,  
*Washington, February 1, 1894.*

SIR: I transmit for your information a copy of a telegram<sup>2</sup> from our consular agent at Bluefields, Nicaragua, touching an invasion of the troops of Honduras at Cape Gracias; also a copy of a letter of the Secretary of the Navy by which you will see that the *Kearsarge* has been ordered to that quarter.

I am, etc.,

W. Q. GRESHAM.

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[Inclosure.]

*Mr. Herbert to Mr. Gresham.*

NAVY DEPARTMENT,  
*Washington, January 27, 1894.*

SIR: I have the honor to submit, for your information, the following translation of a cipher dispatch sent by this Department to the commander in chief of the North Atlantic Station:

JANUARY 27, 1894.

STANTON, *Port au Prince:*

The United States consular agent reports Honduras invading at Cape Gracias á Dios, Nicaragua. Go immediately with *Kearsarge* to protect lives and property of American citizens at or in neighborhood of Bluefields, Nicaragua, and report condition of affairs. Subsequent movements left to your discretion.

HERBERT.

Very respectfully, etc.,

H. A. HERBERT,  
*Secretary of the Navy.*

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<sup>1</sup>See Senate Ex. Doc. No. 20, Fifty-third Congress, third session.

<sup>2</sup>See *ante*.



*Mr. Baker to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
*Managua, Nicaragua, February 9, 1894. (Received March 5.)*

SIR: I have just received from United States Consul Braida a report from B. B. Seat, United States consular agent at Bluefields, a communication of which I inclose herewith a copy.

It relates to the unsatisfactory condition of political affairs in the Mosquito Reservation.

There seems to be trouble brewing in that quarter.

I have, etc.,

LEWIS BAKER.

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[Inclosure.]

*Mr. Seat to Mr. Braida.*

UNITED STATES CONSULAR AGENCY,  
*Bluefields, Nicaragua, January 22, 1894.*

SIR: In compliance with your request made same time ago, I transmit herewith a brief report relating to the condition of public affairs in the Mosquito Reservation.

We have recently had considerable local excitement, caused by rumors of a threatened invasion of the Mosquito Reservation by bodies of armed men from Honduras.

About the 5th of the present month about two hundred Nicaraguan soldiers were landed at Bluefields, and were quartered for several days on the steamboat *Mabel Comeaux*, which lies in the harbor in front of the town.

They were awaiting transportation to Honduras, and were finally sent forward to their destination on board the schooner *Ensmo White*, which was towed as far as Cape Gracias by the steamer *Yeslie*. Their presence at Bluefields did not fail to produce a stir and commotion among the natives and residents of the town.

The chief, or more properly his advisers, construed the mobilization of Nicaraguan troops within the reservation as an infraction of their rights under the treaty of Managua.

One of the Mosquito officials, by the name of Usher Hodgson, called on Commissioner Lacayo and demanded the withdrawal of the soldiers or the surrender of their arms to the municipal authorities of the town. Of course the commissioner refused to comply with the demand.

On the 13th instant a written communication, signed by Robert Henry Clarence, chief, was received by the commissioner, protesting against the presence of armed soldiers of Nicaragua, and serving notice on the commissioner that protest would be made to Her Britannic Majesty's Government.

The commissioner answered the chief's communication, notifying him that the Republic of Nicaragua was then at war with Honduras, and that the necessity had arisen for placing the coasts and frontier of the sovereign in a state of defense, and that only the sovereign could determine the measures for such defense; that no treaty obligations could bind the sovereignty to jeopardize its own existence; that he, the chief, had no diplomatic recognition; that he had no foreign relations or representation and no international responsibility, and that, therefore, he did not recognize his right to interpret for himself the treaty obligations of the sovereign, nor did he (Lacayo) admit the right of England to interfere in any way whatever.

On the 15th instant the soldiers were sent forward, as above stated, to the Honduras border.

Since the departure of the soldiers two meetings have been held in the town for the alleged purpose of devising ways and means for the local protection of life and property, in which some foreign residents as well as natives were participants.

A question arose as to the right of the people to organize military forces without the consent and approval of the sovereign power.

The commissioner was willing that a local guard should be organized, but to be under the control of the sovereign power and to be replaced by the Nicaraguan troops when they returned.

I do not know if any agreement was arrived at, but on yesterday morning a body of twenty-five natives, armed with Remington rifles, commanded by one officer, marched up and down the principal street and afterwards assembled at the old government building, where they seemed to have established temporary quarters.

The commissioner is certainly charged with a very delicate mission, and I fear will have an exceedingly difficult task to establish here a due recognition of the sovereign authority without some local trouble.

The political authority of the reservation has been in the hands of the same set of men for many years past, each one of whom has not hesitated to assume the functions of one, two, and three offices, and that without accountability to any source but themselves.

Two natives of the Island of Jamaica, one J. W. Cuthbert and one John D. Thomas, both of whom claim their British nationality, are the acknowledged leaders of this ring of rulers; and under their control the others have become thoroughly inoculated with the idea of their local independence of the sovereign, and that their political status, as such, is fully recognized, and that they are under the special protection of Great Britain. Hence they are exceedingly tenacious of the power so long wielded by themselves in the reservation, and which they have come to look upon as legitimate and proper.

As a matter of fact the Mosquito Indians proper know but little of the Government as it exists; and according to well authenticated reports have become dissatisfied and have recently developed considerable opposition to this local régime.

They claim that they are not the beneficiaries of anything that is done; that their country is being alienated and its wealth squandered for the enrichment of their rulers, while they as a people are left destitute and poor.

The administration of justice in the reservation has long been a practical failure, to such an extent that scarcely anyone thinks now of appealing to the local courts for the assertion of any legal right.

Their courts will render a judgment, but they will not issue an execution upon such judgment, and consequently the debtor class in the reservation has a free bill, while the creditor class is left without a remedy.

It seems to be the purpose of the commissioner to remedy existing abuses by the reincorporation of the reservation into the Republic, but I fear this can not be effected without opposition from the people who at present control the reservation.

I have, etc.,

B. B. SEAT,  
*United States Consular Agent.*

Received January 24, 1894, forwarded to the United States legation, at Managua, January 28, per dispatch No. 19.

A. C. BRAIDA,  
*United States Consul.*

*Mr. Baker to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
*Managua, February 9, 1894. (Received March 5.)*

SIR: I herewith transmit a petition forwarded to me by Consul S. C. Braida, of Grey Town, Nicaragua. The petition briefly sets forth the unsettled condition of affairs in the Mosquito Reservation; and the signers respectfully ask that a United States war vessel be sent to that coast for the protection of American interests. Consul Braida earnestly indorses this application.

Respectfully submitted, etc.

LEWIS BAKER.

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[Inclosure.]

*Petition addressed to Consular Agent B. B. Seat.*

BLUEFIELDS, MOSQUITO RESERVATION, NICARAGUA.

DEAR SIR: News having reached here that Honduran troops are at Cape Gracias á Dios, Nicaragua, and as war exists at present between the Governments of Nicaragua and Honduras, we, as citizens of the United States of America, having at stake our lives and our properties, hereby appeal through you to our Government at Washington to furnish as quickly as possible a man-of-war for our protection.

Honduras is noted for its cruel warfare, and if the Mosquito Reservation should fall into its hands, over a million dollars of property belonging to citizens of the United States would be pillaged and plundered and many lives sacrificed.

We therefore pray unusual haste be made to afford us the protection we ask for.

Please transmit this by dispatch boat leaving for Grey Town, and urge Consul Braida to cable at once to the Department of State, and should the wires to the interior be down, we authorize Consul Braida, at our expense, to charter a conveyance for Port Limon, to cable from that port.

We are, respectfully,  
 (Twenty-seven signatures follow.)

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*Mr. Braida to Mr. Uhl.*

CONSULATE OF THE UNITED STATES,  
*San Juan del Norte, February 13, 1894. (Received February 27.)*

SIR: I beg to report that Nicaraguan troops occupied Bluefields during the night of February 10-11, and took possession of all the public buildings.

The chief sent a protest to Her British Majesty's consul, Mr. H. F. Bingham, at this port, who himself showed me the whole correspondence between the chief and Don Carlos Alberto Lacayo, the commissioner of Nicaragua.

It is believed that the Nicaraguan Government does not intend to incorporate the reservation by force, but that an assembly of all the chiefs of the Indian tribes will be called in, in order to establish a new council and a municipal authority. So far it has not come to any serious conflict, but the excitement is very great.



The intimations and protests which the young chief addressed to the commissioner were ill advised, and will render it difficult for the British Government to favor Mosquito.

The commissioner very energetically declined to give the chief explanations—even calling some of the latter's pretentions “idiotic.” I have all this information only from the British Consul, to whom the chief sent a special boat asking for protection.

Mr. H. F. Bingham was also informed by an Englishman, coming from the Wanks River, that Honduraneans had taken Cabo Gracias á Dios; that they killed the Nicaraguan governor, Franc. Guerrero, and that the soldiers had left for the bush.

We are entirely cut off from the interior, and no steamer is expected to come down, on account of the defeat of the Nicaraguan army, the steamship *Victoria* being needed on the lake.

I am, etc.,

S. C. BRAIDA,  
*United States Consul.*

*Mr. Braida to Mr. Uhl.*

UNITED STATES CONSULATE,  
*San Juan del Norte, March 2, 1894. (Received March 16.)*

SIR: I succeeded in procuring, just a few moments before the departure of a special schooner for Bluefields, a Spanish copy of Mr. H. F. Bingham's (the British consul's) first communication to the Nicaraguan commissioner at Bluefields. I am hardly able to have it translated in time, and therefore beg you to excuse the form of transmission.

I am, etc.,

S. C. BRAIDA,  
*United States Consul.*

[Inclosure.]

*Mr. Bingham to General Lacayo.*

BRITISH CONSULATE,  
*Bluefields, February 27, 1894.*

YOUR EXCELLENCY: It is my duty to call your attention to the following infractions of the treaty of Managua and of the interpretation of His Imperial Majesty the Emperor of Austria:

1. The treaty expressly stipulates that the flag of the Mosquito Reservation shall be allowed to be flown simultaneously with that of the sovereign State, provided it is furnished with an emblem of the sovereignty of Nicaragua.

2. That the commissioner of the supreme Government must not meddle with the internal affairs of the Mosquito Indians, or exercise any jurisdiction in the Mosquito district.

3. The Republic of Nicaragua is not entitled to regulate the trade of the Mosquito Indians, or to levy duties on goods imported into, or exported from, the territory reserved to the Mosquito Indians. That right belongs to the Mosquito Indians.

In view, therefore, of the actual state of affairs here, I have now to request that your excellency will be good enough to comply with the stipulations of the treaty and restore the “status quo,” pending such

other arrangements as may be made by the high contracting powers, as it is impossible to allow such serious infractions to continue, no consent having been either asked for or obtained from Her Majesty's Government or the Mosquito Indians.

Your excellency must see that such violation of the treaty, publicly exercised before a foreign community and in the presence of a British ship of war, must, sooner or later, call for the interference on the part of the latter, should such a line of conduct be continued in.

I should be obliged if your excellency would be good enough to give me your answer at your earliest possible convenience.

I have, etc.,

H. F. BINGHAM,  
*Her Britannic Majesty's Consul.*

Conforme. Bluefields, March 1, 1894.

CARLOS A. LACAYO.

*Mr. Guzman to Mr. Gresham.*

LEGATION OF THE REPUBLIC OF NICARAGUA,  
*Washington, March 5, 1894.*

SIR: Appended to the present communication I have the honor to send to Your Excellency copy of a telegram addressed to me by the vice-consul of Nicaragua at New York.

The report contained in this dispatch has been already published in the American daily papers, as Your Excellency may have seen.

With all consideration, I am, etc.,

H. GUZMAN.

[Inclosure.]

*Mr. Straus to Mr. Guzman.*

[Telegram.]

NEW YORK, *March 2, 1894.*

British war ship *Cleopatra* landed armed force Bluefields, compelling Nicaraguans to raise state of siege. *Cleopatra* returned Jamaica. British soldiers remained.

*Mr. Baker to Mr. Gresham.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
*Managua, March 6, 1894.*

Consul Braidia telegraphs fifty English soldiers landed Bluefields; strongly urged American warship.

*Mr. Gresham to Mr. Baker.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, March 7, 1894.*

If you verify Braidia's telegram report alleged grounds for landing.

*Mr. Braida to Mr. Uhl.*

UNITED STATES CONSULATE,  
*San Juan del Norte, March 7, 1894. (Received March 21.)*

SIR: I beg to transmit herewith a report of consular agent, Mr. Seat, at Bluefields. The Nicaraguan troops arrived here on their way to the interior, on board of Her Majesty's ship *Cleopatra*, yesterday morning.

I furthermore inclose, in translation, a copy of the provisional treaty concluded between Gen. C. A. Lacayo and Captain Howe, commander of the *Cleopatra*, countersigned by Her British Majesty's consul, Mr. H. F. Bingham, who also returned on the man-of-war from Bluefields.

I am, etc.,

S. C. BRAIDA,  
*United States Consul.*

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[Inclosure 1.]

*Mr. Seat to Mr. Braida.*

UNITED STATES CONSULAR AGENCY,  
*Bluefields, Nicaragua, March 6, 1894.*

DEAR SIR: I seize the opportunity of reporting briefly the latest occurrences in Bluefields.

First. On the 3d of March an agreement was arrived at for the organization of a temporary provisional government for the Mosquito Reservation.

Second. This agreement was concluded between "Captain Howe, commander of the British war ship *Cleopatra*," and Gen. Carlos A. Lacayo, and it provided for the appointment of a municipal council consisting of four persons, two of whom are appointed by General Lacayo and two appointed by myself, and Lacayo to be the presiding officer of such council.

Third. The parties appointed by Lacayo are Don Necho Thomas, of Roma, and Dr. N. Barbarina, and the parties appointed by myself are Messrs. Samuel Weil and J. S. Lampton, both American residents of Bluefields.

The agreement also provided that the English language should be the business and court language of the country.

Fourth. It was also agreed that the Nicaraguan soldiers should be retired, leaving only a police guard of some twenty men until the provisional government could be established.

Fifth. The order to retire the Nicaraguan soldiers was executed on the 5th, and they went on board the war ship *Cleopatra* and sailed the same evening for San Juan del Norte.

Sixth. After the soldiers were withdrawn (martial law having been declared off), there was an interregnum, during which time there was really no established authority in the reserve.

Seventh. About 3 o'clock p. m., after the retirement of the soldiers, a Jamaica negro, said to be the servant of Commissioner Lacayo, walked down the main street, revolver in hand, firing right and left among the crowds of people standing and passing to and fro.

Eighth. After firing some five shots, which almost miraculously did no injury, he was assaulted by a number of persons with clubs, rocks, etc., and beaten almost to insensibility.



Ninth. All the negro population seemed to be intensely excited over this occurrence, and were collected in groups on the main street, all talking and gesticulating excitedly.

Tenth. At night, however, everything seemed quiet as usual, and people went to their homes and all was still, and the streets presenting their accustomed lonely, desolate look.

Eleventh. About 9 o'clock p. m. a shot was fired in the upper end of the town, then another, then another, until some twenty shots or more were fired; and this startled the whole population, so that suddenly the streets were crowded with excited crowds of men and frightened women and children, and it was then ascertained that two of the policemen on King or Main street had been killed near a drinking shop belonging to a native by the name of Martin Ellis.

Twelfth. The vice-consul, E. D. Hatch, and Commissioner Lacayo joined in a request of the officer commanding the British marines to bring his marines on shore as quick as possible to protect life and property and to prevent riot and bloodshed.

Thirteenth. The request was promptly responded to, and this morning we are feeling secure in the presence of Her Britannic Majesty's hardy, brave-looking marines.

Yours, etc.,

B. B. SEAT,  
*United States Consular Agent.*

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[Inclosure 2.—Translation.]

*Provisional treaty for Mosquito.*

No. I. The commissioner will organize a police force for the security of Bluefields.

No. II. The commissioner will also organize a municipal council, consisting of five persons, two of whom will be appointed by the American consul and three by himself.

No. III. The military forces now in Bluefields and within the Mosquito Reservation will be withdrawn.

No. IV. The commissioner declares that he will respect all international promises between the Republic and Her Britannic Majesty's Government.

C. A. LACAYO.  
H. HOWE.  
H. F. BINGHAM.

Correct translation:

S. C. BRAIDA,  
*United States Consul.*

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*Mr. Baker to Mr. Gresham.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
*Managua, March 8, 1894.*

Nicaragua claims sovereignty over Mosquito Reservation; placed troops; Bluefields declared martial law. Mosquito authorities protested; asked protection British consul. English soldiers landed later. English and Nicaraguan troops temporarily withdrawn. Referred to British minister, Guatemala.

*Mr. Baker to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
Managua, March 8, 1894. (Received April 4, 1894.)

SIR: Referring to my cablegram of this date in connection with the condition of affairs in that section of Nicaragua known as the Mosquito Reservation, I have the honor of submitting to you inclosures numbered from 1 to 9, inclusive, which contain all of the information within my possession.

I have had full conferences with President Zelaya upon the general subject, and he has shown me all of the correspondence which is in his possession upon the question. This correspondence, however, is quite limited.

The President informs me that the legal citizens—the native Indians—of the Mosquito Reservation have been crowded out of all participation in the affairs of the Government, and that Jamaica negroes, who are British subjects, have usurped the rule of the territory, to the detriment of the interests of both the native citizens and the white Americans who are doing business there. The President seems impressed with the duty of extending the power and jurisdiction of the Nicaraguan Government over the disputed territory.

By reference to inclosure No. 9 you will observe the commissioner of the Nicaraguan Government, Mr. Carlos A. Lacayo, and the British consul, H. F. Bingham, of Grey Town, have entered into an agreement by which the military of both Governments were withdrawn and the administration of the Government temporarily placed in the hands of a commission, which body is to be selected by Mr. Lacayo's naming three members and Mr. Bingham two.<sup>1</sup> In the meantime, the future of the territory will be discussed between the British minister at Guatemala and the Government in this city.

The President expresses satisfaction at the courteous manner in which the commander of the British man-of-war acted and with the present situation of affairs.

I have, etc.,

LEWIS BAKER.

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[Inclosure 1.]

*Mr. Braidà to Mr. Baker.*

CONSULATE OF THE UNITED STATES,  
San Juan del Norte, February 23, 1894.

SIR: I have the honor to report the arrival of Her British Majesty's ship *Cleopatra*, Commander Howe; she dropped anchor yesterday morning at 8 a. m. off this port.

The captain called this morning at this consulate and at the governor's.

The *Cleopatra* is to proceed to-morrow evening, with Consul H. F. Bingham on board, to Bluefields, and later to Cabo Gracias.

I beg to include herewith a telegram in cipher of the a. b. c. code No. 66, which I intended to send you to-day, and which was refused by order of Governor Rivas.

I am, etc.,

S. C. BRAIDA,  
United States Consul.

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<sup>1</sup> But see inclosure 1 in Mr. Braidà's dispatch of March 7, 1894, page 240.

[Inclosure 2.]

*Mr. Braida to Mr. Baker.*

CONSULATE OF THE UNITED STATES,  
*San Juan del Norte, February 26, 1894.*

SIR: I have the honor to transmit you herewith the copies of Mr. Seat's—the United States consular agent at Bluefields—report and inclosures of importance. The merchants in the reservation had been the beneficiaries of special privileges under the former administration, which they wished to be perpetuated by the new régime. For example, they had not been required to present certified invoices upon their importations; and consequently, the values of such importations were accepted upon the mere statements made by themselves or their agents, and these practices or privileges must have been allowed, either by agreement or through the ignorance of the former authorities.

Of course, honestly acquired vested interests should be recognized under any circumstances and protected, no matter what change of commission takes place; however, Mr. Seat did not ask the commissioner in his communication to protect any such special privilege acquired from the former Government through the ignorance of those who had control of affairs at that time, but all vested interests of Americans in the reservation should have full recognition and protection by the sovereign power.

The institution of martial law at once supersedes all other authority in the district in which it exists, and while it does exist all rights of every description might be swept away, as no means of relief are left to those upon whom it operates.

In his answer the commissioner did not give any assurance that any interests would be recognized, but expressed the opinion that the supreme Government would do so.

A large majority of Americans and others were ripe for some conservative reform of existing abuses, regarding as they did the controlling faction as corrupt and incompetent to govern, where the conditions required a higher order of intelligence and character than those then in authority, under the Mosquito chief. But the necessity of instituting martial law and declaring the whole reservation in a state of siege had not occurred to anyone, either native born or foreigner.

This sudden change from a comparative state of independence to one of purely bayonet rule has had a paralyzing effect upon every line of industry, and if it continues will certainly lead to a disastrous shrinkage in values of every description.

I am, etc.,

S. C. BRAIDA.

[Inclosure 3.]

*Mr. Seat to Mr. Lacayo.*

UNITED STATES CONSULAR AGENCY,  
*Bluefields, February 15, 1894.*

SIR: I have just received this morning a communication signed by a number of the residents of the reservation setting forth the fact that they represent property interests in the reservation amounting to one and a half million dollars or more; that they have inaugurated industrial enterprises, invested large sums of money, built up extensive business connections, established important trade relations with every



portion of the said reservation, and that they hold leases, contracts, concessions, grants, etc., from the deposed Mosquito Government, which they fairly and honestly acquired from the said Government in good faith and at full, fair, and valuable considerations.

They further state that they have acquired the aforesaid interests, invested their aforesaid capital, and have projected and conducted their aforesaid various enterprises for years past under the guaranties afforded by the constitutional provisions of the Mosquito code and by the terms and stipulations of the treaty of Managua, and that the rights and interests so acquired have become vested rights and interests, of which they can not be justly deprived by any change of the local dominion; and that the said vested rights and interests, if not fully recognized and protected by the new régime, will signify the destruction of the local trade, the ruin of the commerce of the reservation, and the impoverishment of those who had endeavored to develop and advance the country. They further declare that they do not call into question the sovereign authority of Nicaragua to occupy the territory of the Mosquito or its right to change the local administration of the reserve, but they aver that in whatever changes are made they are entitled to be duly considered as an element whose interests must be affected by any and all changes that may be made which would ignore or deprive them of the rights and interests heretofore acquired in good faith under the former administration of affairs in the Mosquito Reservation.

They further state that they are fully aware of the cordial relations existing between their home Government and the Government of Nicaragua, and that they would wish to see such cordial relations perpetuated and strengthened, and that they believe that they will be, by a due observance of the rights and duties of each toward the other, and a due respect for their mutual interests; and they have full confidence that all their rights will be recognized and eventually adjusted according to equity and good conscience. But since the promulgation of martial law within the district of Mosquito, they are impressed with the necessity of an immediate recognition of their said rights in the reserve as American residents, and of assurances from the proper source that their interests will be protected and held to be inviolable by the sovereign power of the Republic.

They have therefore appealed to me as the American representative at this port to solicit from you some definite assurances that all vested rights and interests of Americans in the reserve will be respected and be given recognition and adequate protection by the sovereign authority.

During the existence of martial law in this district the liability of insurance companies is suspended; they therefore ask to be informed, in cases of loss by fire, how are the sufferers to be reimbursed and by whom?

They also respectively inquire if the Spanish language is to be substituted for the English in the business forms and transactions of the country, and in the local courts; and if so, will it not operate a hardship on the people of the reserve, this being almost purely an English-speaking community.

With great respect, I am, etc.,

B. B. SEAT,  
*United States Consular Agent.*

[Inclosure 4.]

*Mr. Seat to Mr. Braida.*UNITED STATES CONSULAR AGENCY,  
*Bluefields, Nicaragua, February 22, 1894.*

SIR: Since my last letter, written on the 15th instant, I have to report that there has been but little change in the situation.

The town continues under martial law, and some sort of military edict [is] issued almost daily from the headquarters of Commissioner Lacayo.

Early on the 10th instant a bulletin appeared and was distributed in the streets giving an account of the landing of the troops, and assuring the inhabitants of the town that they need not fear a few Nicaraguan soldiers, as Her Majesty the Queen of England would certainly carry out her treaty obligations to the chief of Mosquito. \* \* \*

On the same day, the 10th, a proclamation from Commissioner Lacayo appeared, notifying the citizens of Bluefields of the existence of war between Honduras and Nicaragua, and assuring them that the Nicaraguan soldiers were here to defend the homes and interests of natives and foreigners, and that they had nothing to fear.

Between the 10th and 12th some communications were passed between Commissioner Lacayo and the Mosquito chief, the exact nature of which I could not ascertain, but was informed that the chief had notified the commissioner that he was violating the treaty of Managua by bringing armed soldiers into Bluefields, and that he (the commissioner), his officers and soldiers, were subject to arrest for such violation of the law.

On the morning of the 12th instant a proclamation was issued by Rigoberto Cabezas, declaring martial law and the town in a state of siege; a copy of which proclamation is herewith attached.

The promulgation of martial law naturally produced intense excitement, as it had not been anticipated. The chief and others of his Government officials left the town and a large body of the native negroes of Bluefields.

On the 15th instant the merchants and other American residents addressed an official letter to myself as the representative of America, asking me to communicate with the commissioner and solicit from him some special assurances that the vested rights and interests of Americans in the reserve would be recognized and protected.

The same day I prepared a letter, setting forth the requests made by the American residents, and asking the commissioner for assurances in behalf of my countrymen that their vested interests and rights would be recognized and protected by the sovereign authority.

On the 17th instant I received from the commissioner a reply to the above, acknowledging the receipt of the letter and stating that it would be forwarded to his Government for consideration, and that he entertained no doubt that the rights not only of Americans, but of all other persons would be recognized and protected.

On the 19th instant an order was issued directed to the merchants requiring all vessels bringing goods from abroad to discharge them at the Government's wharf at the Bluff; second, prohibiting them from making fast to private wharves; third, requiring them to present their invoices in Spanish, and authenticated by a Nicaraguan consul at the port of departure, or by a notary public; and in case of noncompliance to be subjected to fine.



The same day a notice was served on the merchants requiring them to present themselves at the office of the collector at 3 p. m. on the 20th, for the purpose of liquidating their duties, and imposing a fine of \$25 a day for every day's delay in presenting their paid invoices.

This embraces the most important orders issued since the occupation of the town and since the promulgation of martial law.

I believe the orders have been complied with generally up to the present time.

This morning there are reports on the streets of a housebreaking and several persons abused by the Nicaraguan soldiers, and there is also reported to have been a considerable exodus of the negro population.

Yours, etc.,

B. B. SEAT,  
*United States Consular Agent.*

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[Inclosure 5.]

*Saml. Weil & Co., and others, to Mr. Seat.*

DEAR SIR: Inasmuch as the commissioner of the Republic of Nicaragua to the Mosquito Reservation has deposed the local government and declared martial law, we, the citizens of the United States of America, merchants of Bluefields and vicinity, feel that our interests, which amount to at least one and one-half million dollars, are not protected, and rights, privileges, and vested rights obtained and enjoyed are in danger of being taken away from us.

By the action of declaring martial law a serious fault is committed against our interests, for it makes all insurance policies null and void and places all our properties in jeopardy, and in case of fire our losses and hardships would be severe, and in many instances the possessions of citizens of the United States would thus be swept away and leave them in poverty.

Many of us have leases, contracts, grants, and concessions obtained honorably from the deposed Mosquito Government, and for valuable considerations; and from expressions uttered by Sr. Carlos A. Lacayo, commissioner, these are in danger of not being recognized by the Nicaraguan Government, to our injury.

We have made our investments in this reservation, knowing there existed a guaranty in the shape of treaty, which treaty has been observed and been in effect for over thirty years, and our capital, labor, and fortunes within this reservation have been placed here by us with the feeling that we were living in a free zone, with perfect security, and not to be affected by the well-known caprices of a Latin-American government.

Now, by the action of the said commissioner, the fruits of our labor, the commerce of the reservation, which has been developed and is upheld almost solely by the citizens of the United States, will be hampered and eventually ruined; for the duties existing here prior to the deposing of the local authorities were lenient and moderate, and it is now proposed by the Nicaraguan authorities now in charge of the Mosquito Reservation to increase said duties and collect them, and there is no telling where or when the further increase of duties will end.

The Spanish language to be introduced here, within a territory that has been an English speaking one for years, and all records kept in



that language, will work hardships upon us, and can be used to entrap us to commit ourselves.

The new authorities will require consular invoices from the United States, entailing extra expense upon the merchants and more labor. This was not required by the previous Government; and as our importations come mainly from New Orleans, La., U. S. A., and steamers remain in that port frequently only long enough to discharge and load, the time entailed to make these invoices in Spanish will work to our injury.

The officers appointed thus far by the said commissioner are collector of customs, treasurer, port surgeons, and some minor officers. The collector of customs has issued the inclosed circular requesting them to pay duties to him.

We recognize the supreme authorities of Nicaragua, and are not protesting against their placing troops here; for we acknowledge same to be their rights, simply protesting against Nicaragua interfering with any of the local laws of the reservation affecting our previous rights and privileges.

American shipping has been hampered by being required to obtain certain manifests, permits, and same serve to detain said vessels unnecessarily, and were not required heretofore by the local authorities.

Therefore, as our representative, we respectfully ask that you address a note to the acting authorities requesting that they give pledges and guaranties that the interests, vested rights, rights and privileges enjoyed by citizens of the United States shall remain intact and shall not be interfered with, and would also respectfully ask that you will inform our Government of the situation, the jeopardy our properties are placed in, and that we ask the good offices of the United States to secure for us the protection of our rights that we are entitled to.

Sam'l Weil & Co.; Sam. D. Spellman, agent for Geo. D. Emery; The New Orleans and Central American Trading Co., Julius Fueolander, managing; Jno. Wilson; Wilson & Ingram; Brown, Harris & Allen; H. Ebenpaeger & Co.; J. A. Peterson; Bluefields Banana Co., per Tho. W. Waters; Paul Osterbout; G. C. Haight; Sam'l Serf; J. S. Lampton; Henry F. Jepinger; G. B. Ehlen; Adolph Pomarontz; S. Nathen; B. Frank; C. P. Jessup; H. G. Tom.

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[Inclosure 6.]

*Mr. Lacayo to Mr. Seat.*

[Translation.]

BLUEFIELDS, *February 17, 1894.*

American Vice-Consul, present:

I have the pleasure of referring to your communication of the 16th, in which you acknowledge the receipt of a communication signed by the American citizens, resident of the city, in which they joined for the purpose of representing that they possess acquired interests within the reserved territory; that they expect guaranties for those interests; that they recognize the right of the foreign authority of Nicaragua to occupy the territory, and hope that the cordial relations existing between the Government of Nicaragua and the United States will be cemented now

with the respect which the interests of the Americans merit; and lastly, you ask to obtain through my official authority an immediate recognition of those interests, and that as the insurance policies on their said property are suspended during the existence of martial law, who is to reimburse them for their losses in case of accident by fire, and at the same time you inquire concerning the language to be adopted in this country.

Your very important communication will be forwarded to the supreme Government to be considered, and I have no doubt that not only will the rights of Americans but those of all other persons who possess such right will be protected.

In regard to the situation of affairs, and the consequences, they are clearly determined by the law of nations.

Nicaragua is not responsible for any private transactions.

With all consideration, I am, etc.,

CARLOS A. LACAYO.

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[Inclosure 7.]

*Proclamation of Commissioner Lacayo.*

To the Citizens of Bluefields, greeting:

You know that, challenged by the tyrant who reigns in Honduras, we accepted as a duty to our national honor the glove that was thrown down.

The war has been occasioned by an ambitious and criminal man whose barbarous actions are known to you.

It was he who bombarded an American vessel which had on board the minister of the United States.

He is the same cruel tyrant who failed to respect anything in his own country, even to women and children, and the same who, naming himself chief of the Mosquito Reservation, proceeded to throw his wild hordes on these unprotected, cities which would have happened, if in the battle of Ilaya our soldiers had not routed them.

Notwithstanding that we have fortified Cape Gracias a Dios, the marauders from Vasquez could invade this port, if Nicaragua were to leave it without defense.

Our forces have arrived and you have with you the vanguard of the soldiers of Nicaragua.

They come to defend your homes and your interests, and they come also to save the lives and interests of the strangers, for which Nicaragua is responsible by international law, and would be criminally negligent if she did not do all that is in her power to give them the protection of her flag and soldiers.

General Cabezas is the honorable chief of our military forces, who promises to have the laws of the Republic respected, which are the rights and guarantees of each person.

Have faith in our army, whose heroism and bravery have planted our glorious and victorious banner in the last bulwark of Vasquez.

The people of Bluefields have nothing to fear.

Our sovereignty is their safeguard.

CARLOS A. LACAYO,  
*Comisario de la Reserva Mosquitia.*

BLUEFIELDS, NICARAGUA, February 10, 1894.

[Inclosure 8.]

*Proclamation of Intendente General Cabezas.*

PROCLAMATION.

Considering that having been refused the rights of Nicaragua of putting forces in its territory by the chief of the Mosquito Reservation;

That the same chief, in a letter addressed to the commissioners of the Republic, the contents of which letter were communicated to me, opposed openly the mobilization of Nicaraguan forces, menacing to capture and chastise the soldiers who carry arms;

That the referred note signified a categorical denial of the sovereignty of Nicaragua and the disavowal to the legitimate authorities;

That in the war in which she is involved all acts which favor an enemy are crimes of high treason;

Therefore, by the powers and faculties invested in me, I decree:

ART. 1. Military occupation of the city of Bluefields and declare it in a state of seige.

ART. 2. To ignore the authorities in office appointed by the Mosquito Government. The commissioner of the Republic will organize, according to necessity, the régime of administration and police.

ART. 3. No crafts can leave the city or port without a pass from my office.

ART. 4. It is prohibited to form groups or public meetings, or to carry arms.

ART. 5. The transgressions which are committed against the order and security of the State will be punished by martial law.

Given in Bluefields, Monday, 12th February, 1894.

RIGOBERTO CABEZAS,  
*Intendente General of the Atlantic Coast.*

[Inclosure 9.]

*From Jose Vita to President Zelaya.*

[Telegram—Translation.]

SAN JUAN DEL NORTE, *March 6, 1894.*

MR. PRESIDENT: I have the honor of communicating to Your Excellency the following:

BLUEFIELDS, *March 4, 1894.*

In the house of the governor of Nicaragua, in the city of Bluefields, there assembled the captain of the English man-of-war *Cleopatra*, the English consul, and the commissioner of the Republic to the reservation, to confer for the purpose of adjusting the present difficulties arising for the military occupation of the reservation. While the several governments are debating the question, a modus vivendi, conforming to the following articles, is established:

First. The commissioner will organize a police for the protection and safety of Bluefields.

Second. The commissioner will also organize a municipal council, composed of five persons, two to be named by the consul (British),<sup>1</sup> and three by the commissioner.

Third. The military forces will be withdrawn from the city of Bluefields and from the reservation.

<sup>1</sup>So in the translation of Senor Vita's telegram. In the rest of the correspondence it is stated that two municipal councilors are to be named by the American consul.



Fourth. The commissioner acknowledges the validity of all international treaties existing between the Republic and Great Britain.

CARLOS A. LACAYO.  
A. PENGONTIONAS.  
H. F. BINGHAM.  
(*Sic* H. HOWE, *Capt.*)

I have the honor to be Your Excellency's obedient servant,

JOSE VITA.

NOTE.—The above was kindly furnished me by President Zelaya.  
L. B.

*Mr. Gresham to Mr. Bayard.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, March 9, 1894.

We have trustworthy information that a few days since a British military force landed at Bluefields in the Mosquito territory. You are instructed to ascertain and report fully by cable the occasion for this action.

*Mr. Gresham to Mr. Baker.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, March 14, 1894.

Did Great Britain land troops under asserted right of sovereignty or only for protection? Prompt answer desired.

*Mr. Bayard to Mr. Gresham.*

[Telegram.]

LONDON, March 15, 1894.

Just had an audience with Lord Kimberly, who is without precise knowledge or reliable information of occurrences at Bluefields. British Government have given no instructions and are awaiting information which, when received, will be promptly and fully communicated to the United States. British consul at Greytown telegraphed, 4th of March, British minister at Guatemala, that Nicaraguans suddenly seized Bluefields and displaced Mosquito flag, behaving violently and cruelly. Because of disorders and dangers to residents, British war vessels visited Bluefields. Mosquito flag rehoisted, quiet restored, pending settlement. Extract from Lord Salisbury note of March, 1889, in Foreign Relations for that year, page 469, has full concurrence of Lord Kimberly, "No protectorate in substance or form, nor anything in

nature of protectorate, desired or intended by British Government." Read in this connection instructions, Bayard to Phelps, No. 530, November, 1888. I believe landing of forces was to extend safety to residents and check violence.

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*Mr. Bayard to Mr. Gresham.*

EMBASSY OF THE UNITED STATES,  
London, March 16, 1894. (Received March 26.)

SIR: \* \* \* On the 15th, when I went to the foreign office, I stated the solicitude of my Government to be fully informed of the particulars of the incident of landing an armed force from a British man-of-war at Bluefields. I found Lord Kimberley (just in office) very willing to tell me all he knew, but in fact with but little to communicate that, to use his own words, "had either precision or reliability."

My telegram<sup>1</sup> is as near the intelligible substance of his statements as possible.

There were no orders given by this Government, and no instructions applied for, prior to the landing, nor could his lordship inform me from whom the application came nor to whom it was made, and they have since endeavored to obtain knowledge of all the facts, and appear to be very disinclined to interference.

The collision (whatever it was) between the Nicaraguans and the Indian residents of the reservation occurred suddenly, and I have a strong impression that had the *Kearsarge* arrived before the British vessel, an endeavor would have been made by her commander to avert danger and protect the lives and property of American citizens in that remote and unregulated locality.

Lord Kimberly read to me from a telegram—a somewhat obscure report from the British consul at Greytown—that there was a claim asserted by the Nicaraguans that at some time prior (date not given) an agreement by the Indian council of the reservation had been made, while two British vessels were in port, for the incorporation of the reservation into the Nicaraguan territory, and that their action of hauling down the Mosquito flag at Bluefields was in consequence of such an agreement.

All this telegraphic communication is necessarily imperfect and but slightly reliable, and I am promised by Lord Kimberley instant information, as it shall be received hereafter at the foreign office.

In my last telegram I made reference to certain correspondence which is contained in the volumes of our Foreign Relations, as giving the most reliable basis of dealing with events as they are now being disclosed.

The status of the "reservation" of the Mosquito Indians in relation to Nicaragua is anomalous, and is to-day embarrassed by the very regrettable action of Nicaragua in consenting without notice or consultation with the United States, to submit in 1879 the question of the degree of her sovereignty over the Indian territory of Mosquito to the umpirage and sole arbitration of the Emperor of Austria-Hungary. Nor do I understand the action of Great Britain, who by her convention of 1850 (the Clayton-Bulwer treaty) with the United States, by

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\* See page 250.

which the attitude and relations of both of those high contracting parties in relation to the Central American States and their territories were so carefully considered, so that the two Governments had pledged themselves to a mutual and several abstention from political interference or control in that geographical region; and yet, without consultation or notice to the United States, the award of a foreign government of Europe is sought and accepted, which, as it has been proved more than once, contains results of a most important and influential character upon the very questions which the treaty of 1850 was intended to control.

For this reason I respectfully referred you to an instruction dated November 23, 1888, by the then Secretary of State to Mr. Phelps, then minister at the Court of St. James, which is to be found at page 759 of the Foreign Relations volume for 1888.

By that instruction it will appear that Nicaragua had at once called upon the United States, when the British representative at Nicaragua proposed intervention by his Government in relation to the exercise of certain acts of sovereignty—according to the usual and accepted meaning of that word—by Nicaragua over the territory occupied by the Mosquito Indians, and included in the “reservation” which they were to occupy under and subject to that sovereignty.

The views of the United States Government, as set forth in the instruction referred to, were communicated to the British Government on December 4, 1888, but no reply was made until the month of March following, and when a change of Administration in the United States had just taken place.

The reply of the Marquis of Salisbury was delivered by the British chargé d'affaires in Washington on the 28th of March, 1889, and there the question was allowed to rest for four years, and not until February, 1893, was the correspondence renewed, as I find by the files of this office.

At the date last mentioned, Mr. Foster, then Secretary of State, instructed Mr. Lincoln (my immediate predecessor here), who communicated a copy thereof to Lord Rosebery, then Her Majesty's secretary of state for foreign affairs, and no reply has yet been made thereto.

May I respectfully suggest that all the correspondence above referred to—the documents containing the treaty of Managua, between Great Britain and Nicaragua, the terms of the reference to and the award of the Emperor of Austria—be printed by the United States, so as to present compendiously the questions involved, in order that they may receive a just, intelligent, amicable, and satisfactory solution.

An interesting and important part of the history of this question is contained in the instruction, dated April 26, 1873, by Mr. Fish, then Secretary of State, to General Schenck, United States minister to Great Britain. That document is on file in this embassy.

I have, etc.,

T. F. BAYARD.

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*Mr. Braida to Mr. Uhl.*

CONSULATE OF THE UNITED STATES,  
*San Juan del Norte, March 17, 1894. (Received March 26.)*

SIR: I beg to report that on the morning of the 13th instant I arrived in Bluefields on board of the steamship *Yulu*, in compliance with the request of Mr. Seat, United States consular agent at that place, and



also in compliance with the urgent appeals made to me by American citizens, several of whom had gone to Greytown as a delegation to bring me back with them to this place.

Mr. F. H. Bingham, the British consul at Greytown, returned with me. On arrival in Bluefields we found the place occupied by the British marines and soldiers as had been previously represented, and good order maintained by them as a police authority. Every day since my arrival I have met Mr. Bingham and General Lacayo, or his representative, in conference concerning the creation of a provisional government for the Mosquito Reservation, and propositions and counter propositions have been made, but none could be agreed on by all the parties up to the present date on account of the wide range of power sought to be obtained by the Nicaraguan representatives. They ask to make Lacayo virtually the governor of the reservation, with very large discretionary powers, while the American elements insist that there should be no interference by any other than the people, who should be left free to create their own local régime. The matter of Corn Island was also taken up and a petition of the citizens of that island considered. It asked protection from the British. A British man-of-war was at Corn Island recently.

I had anticipated this in a telegram to Minister Baker at Managua some ten days ago.

The American element do not consider themselves as being the parties to settle the questions now in issue here, but both the Nicaraguans and the British seem especially anxious that the Americans shall take a prominent part in the arrangements made, and do not seem inclined to agree upon measures and settle matters themselves, but to be determined to shoulder a great part of the responsibility upon the Americans.

The Americans residing here realize the necessity of getting clear of the incompetent negro domination, but they are afraid of Nicaraguan cupidity and tyranny.

Something may be effected within the next few days, as all parties are growing anxious under the present situation. I beg to include Mr. Seat's last dispatches explaining the situation, which is still unchanged.

I beg to say further that the Americans in a meeting held at the clubroom on the evening of the 13th instant appointed Sam Weil and B. B. Seat as a special delegation to proceed to Washington to place matters before our home Government, and they will probably go on the return trip of the steamship *John Wilson*, about the 20th instant.

I have, etc.,

S. C. BRAIDA,  
United States Consul.

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[Inclosure 1.]

*Mr. Seat to Mr. Braida.*

UNITED STATES CONSULAR AGENCY,  
Bluefields, Nicaragua, March 11, 1894.

MY DEAR SIR: Since my last to you on the 6th instant the situation has remained in statu quo.

The protocol for a provisional council, mentioned in my last report, which had been adopted by Consul Bingham, the captain of the *Cleopatra*, and Lacayo, did not receive full favor, and I suggested that the number of delegates to the proposed council should be eight instead of

four, so as to represent in the council not only the Nicaraguan and American elements, but also the British subjects, the Indian and native creoles.

This amendment was accepted and agreed on between Captain Howe and Lacayo in this office in my presence on the evening of the 7th instant.

It was to be presented to the council at its first meeting by Mr. Lacayo, the chairman, and adopted as an amendment to the original protocol.

The first meeting of the council was called by Lacayo on the evening of the 8th instant, and the amendment was opposed by the Nicaraguan delegates, and finally the meeting adjourned without having accomplished anything toward the creation of a provisional government. Another meeting was held yesterday, but resulted very much as the first one had.

The American delegates will not attempt the formation of a provisional government unless every element of the population has a fair representation.

On the other hand, I think it is the policy of the Nicaraguan delegates not to recognize any representation except the Nicaraguans and Americans. In that way they expect to control, inasmuch as three Nicaraguans can always outcount and outvote two Americans.

The attempt to establish a provisional government by agreement I believe will prove a failure, as the Nicaraguans do not seem to regard equal representation as being important or essential; whereas the American delegates will not recognize any other principle in the adjustment of the present affairs of Mosquito. The marines of the *Cleopatra* continue their occupation for the protection and preservation of life and property by request of the inhabitants. Almost the entire population, native and foreign, is now in active sympathy with British marines; because they fear that if Nicaragua should have exclusive dominion here it would subject them to the vengeance and spite of those holding official power. Captain Howe says he hopes to see an American man-of-war here soon to relieve him.

Hoping you are well,

I remain, etc.,

B. B. SEAT,

*United States Consular Agent.*

[Inclosure 2.]

*Mr. Seat to Mr. Braid.*

UNITED STATES CONSULAR AGENCY,  
*Bluefields, Nicaragua, March 11, 1894.*

MY DEAR SIR: Since closing a dispatch forwarded to you this morning by the hands of Mr. William English, I have been called into a meeting of the American residents at the clubroom. The local complications are such that your presence is considered indispensable. They send a delegation on board the steamship *Yulu* to bring you to Bluefields. Permit me, in their behalf and on my own account, to respectfully urge you to comply with their wishes and return with them.

Hoping to see you on the return of the *Yulu*,

I remain, etc.,

B. B. SEAT,

*United States Consular Agent.*

*Mr. Braida to Mr. Uhl.*

CONSULATE OF THE UNITED STATES,  
*San Juan del Norte, Bluefields, March 18, 1894.*

SIR: \* \* \* The agreement between Consul H. F. Bingham and Commissioner Lacayo would have made Lacayo actually governor of the reserve, which would have placed the reservation under Spanish rule, which the Americans under no circumstances would desire to see. Our delegates leave within two days for Washington.

MARCH 19, 1894.

The proposals heretofore submitted by Consul Bingham were resubmitted to-day. The Americans were asked to accept them on pain to have the police force withdrawn from the town to-morrow morning. The Americans answered as follows, to wit:

The American residents of Mosquito have, upon consultation, and with legal and consular advice, decided that under the present condition of affairs and existing circumstances they have no right to take part in the formation of a provisional government; that we would be placed in a position whereby we could be blamed for any wrongs committed, and in fact would not be responsible for same.

Inasmuch as Commissioner Lacayo is practically the dictator of the Government, we shall remain perfectly neutral and trust that such arrangements will be made as are not detrimental to our interests.

We are sending by first steamer a committee of Americans to Washington, D. C., to present the particulars of the situation to our home Government.

I have, etc.,

S. C. BRAIDA,  
*United States Consul.*

*Mr. Baker to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
*Managua, March 20, 1894. (Received, April 14.)*

SIR: Complaint having been made to me by the Government of Nicaragua that Consul Braida has been actively in sympathy with the British armed occupancy of Bluefields, I deemed it my duty to send him the inclosed note of caution. I am persuaded that Mr. Braida has not departed from the just and conservative course which his official position demands of him, notwithstanding the provocation to retaliate for the insults offered him may have been great.

I am, etc.,

LEWIS BAKER.

[Inclosure.]

*Mr. Baker to Mr. Braida.*

LEGATION OF THE UNITED STATES,  
*Managua, March 19, 1894.*

DEAR SIR: I have returned to you by the outgoing mails your recent telegrams. They were delayed in their transmission four days, and when received were so mutilated as to be unintelligible. I undertook to send several telegraph messages to you, all of which required answers.



I received no answers, and conclude that either the messages were not delivered, or if delivered were so mutilated as to be beyond recognition.

Complaint has been made to the President of this Republic, by Governor Rivas I presume, that the American consul is throwing his personal and official influence against Nicaragua in the Mosquito affair. I feel sure that you have a just appreciation of the dignity of your official position and of your duty as a representative of the United States, which require you to occupy a friendly position toward this Government, and that you have not departed from this path of duty. But since the statement has been made to me, in a second-hand way, from the public officials here, that you have allowed the insults offered you by the Nicaraguan official at Grey Town, Rivas, to influence you in your action in the Mosquito affairs, I deem it my duty to caution you against doing anything by word or deed which could properly be construed into unfriendliness to the Government of Nicaragua or to its claim of sovereign rights over that territory.

I will ask you to repeat to me by telegraph, on receipt of this, an unvarnished statement of the facts in the case.

I am, etc.,

LEWIS BAKER.

*Mr. Braida to Mr. Uhl.*

CONSULATE OF THE UNITED STATES,  
*Bluefields, March 22, 1894. (Received March 31.)*

SIR: I have the honor to transmit herewith copy of my dispatch to Hon. L. Baker, United States minister at Managua.

I beg to report that I shall stay here until the arrival of a United States war ship or other orders, considering lives and property of our citizens not at all secured.

I am, etc.,

S. C. BRAIDA,  
*United States Consul.*

[Inclosure.]

*Mr. Braida to Mr. Baker.*

UNITED STATES CONSULATE,  
*Bluefields, March 21, 1894.*

SIR: On the afternoon of March 14 a meeting was held in the clubhouse by the Americans to tender to the captain commander of Her British Majesty's ship *Cleopatra* and to his officers and men their most sincere thanks for the maintenance of order and security.

The American residents then discussed and adopted a resolution to send a delegation to Washington, D.C., to state to the home Government the great importance of the political changes in the Mosquito Reservation, concerning their enterprises, commerce and traffic in general, as they considered their welfare endangered.

Consular Agent Mr. B. B. Seat and Mr. Sam. Weil, merchant, were unanimously elected, and Mr. George D. Emery, of Boston, Mass. (mahogany firm), will join the delegation at Washington.

Since that time all sorts of attempts have been made to induce us Americans to compromise ourselves to become a party in the suspicious

arrangements entered into between the British officials, Captain Commander Howe and Her British Majesty's Consul Bingham, with Commissioner Lacayo and General Cabezas to form a provisional government upon a basis which we considered un-American, unfair to the best interests of the inhabitants of the reservation at large, and expressly contrary to the Managua treaty of 1860, therefore relieving the English and Nicaraguan officials of all responsibility of the infraction of the treaty of Managua and the Clayton-Bulwer treaty (if there be an infraction) and throwing the responsibility upon our shoulders. We unanimously decided to decline all offers to participate in a provisional government under the condition offered us by the above-named agents of the two high contracting powers to the treaty of Managua.

Believing that Mosquito under Spanish rule means the utter ruin of all that American capital and energy has accomplished and built up here in such a wonderfully successful manner in the past few years. The experience we have had during the past year was tyranny, injustice, and oppression in the most outrageous forms. We suffered without being able to get the least satisfaction or redress.

The facts have decided our people here to make a last effort, in sending a delegation to Washington to explain the situation and to prove to the United States Government the need of immediate action. \* \* \*

Since Monday morning, March 19, another attempt has been made to form a provisional government, and notwithstanding the reiterated refusals of the Americans to take part in the proposed government, General Lacayo has taken it upon himself to make personal appointments to proposed provisional council, which appointments have in every instance been declined by both Americans and natives.

I beg to state that at this time the natives, creoles as well as Indians, have completely taken our standpoint and will under all circumstances go with us to maintain autonomy to Mosquito.

At 3.40 p. m. to-day, March 21, the river steamer *Hendy* arrived with 30 soldiers on board with their arms boxed. This was in direct violation to the agreement made in my presence on the 19th instant at 2 p. m. that Nicaragua would under no pretext bring soldiers, nor employ Nicaraguans in the police force. This created great excitement among the populace, and when I asked Mr. Bingham at the British consulate if this was not a breach of his agreement with General Lacayo, he intimated that he was powerless to act; after which I left him with the impression that the whole proceeding was but another intrigue, and tried to quiet the general excitement.

Later in the evening, at the request of several American citizens, I called on General Lacayo to find out what course he intended to pursue in regard to keeping order in the town.

During the course of conversation I suggested that he place the town in the hands of the Americans for the night, guaranteeing to keep peace and order on condition that General Lacayo would promise to keep his soldiers in their quarters. General Lacayo expressed himself very much pleased and entirely satisfied to have us do the police duty for the night. I left him, telling him I would call a meeting of Americans and lay the proposition before them. I called the meeting, in which also the natives, Germans, and others participated, and it was resolved to do the police duty for the night.

Myself, accompanied by a committee from the meeting, then called upon General Lacayo to inform him that we would take charge of the town for the night. He thanked us, but said that within the last two

hours circumstances had arisen which would compel him to take charge of the town himself with his soldiers.

This a. m., March 22, Her British Majesty's Consul Bingham left on the British Majesty's ship *Canada* for Grey Town.

I have received no dispatches whatever in a fortnight.

I am, etc.,

S. C. BRAIDA,  
*United States Consul.*

*Mr. Braida to Mr. Uhl.*

UNITED STATES CONSULATE,  
*San Juan del Norte, Bluefields, March 26, 1894.*

(Received April 11.)

**SIR:** Having been accused by some Nicaraguan officials to have taken a hostile attitude toward the Nicaragua Government since my arrival at Bluefields, I beg to transmit a copy of my dispatch<sup>1</sup> to Honorable L. Baker, United States minister at Managua, on that subject.

Furthermore, I beg to state that, having been without instructions, I have not "acted" at all, and have most conscientiously restricted myself to maintain order and peace, and to quiet the prevailing excitement during day and night. I was in duty bound not to make ourselves a party in the arrangement between Great Britain and Nicaragua, knowing that arrangements they were about to enter into would be detrimental to the best interests of the United States, and also against the most vital interests of our citizens residing and doing business in the Mosquito Reservation.

I have the honor, etc.,

S. C. BRAIDA,  
*United States Consul.*

*Mr. Gresham to Mr. Braida.*

[Telegram.]

WASHINGTON, *March 28, 1894.*

You are not authorized to perform diplomatic functions, and will not meddle in political affairs in Mosquito. Naval vessel will soon reach Bluefields.

*Mr. Bayard to Mr. Gresham.*

EMBASSY OF THE UNITED STATES,  
*London, March 29, 1894. (Received April 9.)*

**SIR:** I had the honor by my dispatch of the 16th instant, to communicate to you some remarks upon the status of the "Mosquito Reservation," in the territory of Nicaragua. Since then I have received from

<sup>1</sup> Not printed.



Lord Kimberley, on the 24th instant, a memorandum in relation to the incident of the landing of a British armed force at Bluefields, and inclose herewith a copy.

As I have before had the honor to state, the political status of these Mosquito Indians and the extent of their rights of local self-government are illy defined, and it is highly desirable for the interests of all concerned that the lines of lawful authority should be more distinctly established and agreed upon.

The theater of the events under consideration is remote, and the region is occupied by a population imperfectly civilized and scattered.

The most influential residents of Bluefields are traders, English and American, with some negroes from the Island of Jamaica, and information of a reliable and satisfactory nature is necessarily difficult to obtain. But it does not appear that the alleged intervention by the British armed force was for the maintenance of the rights of the Mosquito Indians against alleged Nicaraguan oppressors—but, rather, to protect other classes of residents, who are not mentioned in the treaty of Managua, of 1860, between Great Britain and Nicaragua, and are not parties to any stipulations, express or implied, by that convention.

At the close of the memorandum, now transmitted herewith, it is stated that interviews and arrangements for the purpose of restoring peace and order at Bluefields were between the British consuls and the Nicaraguan general, in which it was by and under Nicaraguan authority alone all the measures to restore and maintain peace were to be executed.

This arrangement, so far as it goes, implies a recognition of Nicaraguan sovereignty, and the subordination of Mosquito affairs to the (not unqualified) control of the former. I am informed that Nicaragua has paid in full the annuity of \$5,000 stipulated for ten years by the treaty of Managua, and I am disposed to believe that, by the exercise of moderation, discretion, and just humanity, Nicaragua can remove all vestige of pretext or reason for any foreign intervention for the settlement of questions of a social or political nature between herself and the Mosquito Indians, and that race and that class are the only individuals who have any recognition or standing under the terms of the treaty of Managua, which contained restrictions upon the sovereignty thereby ceded to Nicaragua by Great Britain.

It has been reported that Admiral Benham has been asked to visit Bluefields, and I hope it is true and that a reliable report of the condition of that region may thus be furnished.

Sir John Hopkins, the British admiral, is a man of the same stamp, and his account may be looked for with interest and respect by all parties.

As a possible contribution to knowledge of the locality and events in question, I inclose copies of a communication by a correspondent of the Times, of the 27th instant, which is, however, evidently colored by the views and prejudices of the writer in the interests of a Moravian mission.

The treaty rights of Nicaragua, under the convention of 1860, at Managua, must be interpreted by the then existing state of facts, and it will not be safe to interpolate additional restrictions upon the sovereignty of Nicaragua, as to subjects and interests not then existent and not even contemplated at that time.

The spiritual welfare of the Mosquito population was not, and is not, among the responsibilities with which Great Britain was charged or is chargeable.

Upon obtaining further information on the subject I will communicate it to you.

I have, etc.,

T. F. BAYARD.

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[Inclosure 1.]

*Memorandum handed to me March 24 by Lord Kimberley, personally, at the foreign office.*

The latest information respecting the state of affairs at Bluefields is contained in two telegrams from the admiral commanding the West Indies Station and the captain of the *Canada*, from Colon.

From these telegrams it appears that the captain of the *Cleopatra*, Captain Curzon-Howe, had, on the 5th of March, at the request of the consuls and the Nicaraguan commissioner, landed 100 men at Bluefields for the protection of life and property; that this detachment had, on the 16th of March, been replaced by a detachment from the *Canada* (Captain Wilson), the *Cleopatra* being under orders to proceed to Newfoundland. The men were reembarked on the 20th, the Nicaraguan commissioner at Bluefields having undertaken to form a provisional government.

It is not known what was the exact nature of the disturbances which led to the landing of the men from the British ships, but on the 17th of March Her Majesty's minister at Guatemala had telegraphed that disturbances had occurred at Bluefields, and that there had been serious loss of life and property.

The information which had been previously sent by Mr. Gosling, and which was received on the 4th of March, was that the Nicaraguan authorities had, on the 12th of February, overthrown the Government of the Mosquito Reserve, and had proclaimed Nicaraguan authority; that Her Majesty's consul had telegraphed to Jamaica for a ship of war.

On dispatching H. M. S. *Cleopatra* to Grey Town and the coast of the Mosquito Reserve, Admiral Hopkins gave orders to the captain that his stay in those waters should not be longer than he might consider necessary (after consultation with the local representatives of the British Government) for the protection of British interests and subjects. The same orders were given to the captain of the *Canada*, which relieved the *Cleopatra*.

The *Cleopatra* arrived at Grey Town on the 22d of February, and there her captain learned that early in the month 126 Nicaraguan soldiers had arrived and had proceeded to Bluefields, of which they took possession during the night of the 12th, martial law and a state of siege being declared, and all the Mosquitian officials being deposed and the Nicaraguan flag being hoisted.

The *Cleopatra* took on board Her Majesty's consul, and arrived at Bluefields on the 25th of February. The captain and the consul had interviews with the Nicaraguan commissioner and the general in command of the Nicaraguan troops. The result of these interviews was that the general undertook (1) to raise the state of martial law, (2) to hoist the Mosquito flag alongside the flag of Nicaragua, (3) to form a council, (4) to organize a civil police, (5) to send away a portion of his troops.

The *Cleopatra* left on the 27th of February for Colon, to coal, leaving some armed boats in sight of Bluefields, to which place she subsequently returned to await the arrival of the *Canada* to relieve her.



[Inclosure 2.—From the Times, Tuesday, March 27, 1894.]

*The Nicaraguan attack on Bluefields.*

[From a correspondent.]

BLUEFIELDS, February 22.

Allow me to draw the attention of your readers to an act of aggression on the part of Nicaragua. She violently took possession of the Mosquito Reservation on the morning of the 12th instant, invading its capital, the town of Bluefields, with an armed force of soldiers when all its inhabitants were fast asleep, breaking open the Government buildings, and placing them under a strong guard, temporarily arresting those who might have escaped to raise an alarm, forcing open the gaols and letting loose all the prisoners, hoisting her flag on the Mosquito flagstaff, and declaring the natives Nicaraguan citizens. By these measures the Nicaraguans have deprived the chief, Robert Henry Clarence, of his authority as president of the council, dismissed the members of that body, removed the judges of the supreme court, the magistrates, and every government official in the service of his excellency the chief. They have also appropriated moneys, and roughly handled a British subject, the custom-house collector, to obtain the keys of the safe. Up to the present date we have been under martial law, which was proclaimed on the 12th instant.

In this way Nicaragua has used force and intimidation to deprive the Mosquitos of their rights. She has also offered bribes to many influential persons to agree and consent to this when the final settlement comes. The natives are opposed to any closer relation with Nicaragua, with whom they have no sympathy, their customs, manners, and character being so much at variance. The Mosquitos have a great liking for England; they were happy and contented while under her protectorate from the latter part of the seventeenth century to 1860, and a pang went through the whole of the tribes when the best part of their territory was handed over to Honduras and Nicaragua. However, they were pacified by having a portion set apart for their use and at being free to govern themselves without any interference from the supreme Government; and they implicitly believed that England would see that all the stipulations of the treaty of Managua made between Her Britannic Majesty and the Republic of Nicaragua in 1860 were carried out. So far they have done their best to comply with all the stipulations of this treaty, and have respected the rights of the sovereign power. They have borne patiently the encroachments and oppression of Nicaragua for many years past, protesting and reporting to the foreign office from time to time as they occurred; but, for some reason or other, no satisfaction was ever obtained. For the last ten years the commercial development of this country has made rapid strides. Foreign capitalists, especially American, have established the banana trade, which is now very extensive; other investments have also been made in connection with the natural products of the country according to the laws of the Mosquito Government, and if this radical and sudden change is to have effect, concessions, grants, leases of lands, and Government obligations will have to be taken into consideration and regulated accordingly, all having been done upon the strength of the treaty.

The Nicaraguans have long looked with a jealous eye upon the revenues and harbor advantages of this country, never failing to encroach where they saw a chance, and holding on tenaciously in spite of all remonstrances and opposition. They obtained a footing at Rama City,



situated at the mouth of the Rama and Siquia rivers, tributaries of the Escondido or Bluefields River, a few miles east of the western boundary, and they invited their wealthy men to come there from the interior, granted them lands in the vicinity, irrespective of claims or leases issued by the Mosquito Government, built a quartel for the soldiers, appointed a governor, and extracted dues and revenues from the people. Then they began to watch a large mahogany company who are cutting valuable woods, and wherever a chance could be seen declared the works to be in Nicaragua, thus obtaining the extraction dues. Another instance of encroachment was the establishment of a military station and governor on the Rio Grande or Great River, about 15 miles due east of the western boundary. The next step was to strip the reserve of its islands and bays, which the natives possessed for fishing and growing cocoanuts long before the treaty of Managua was ever thought of. Several other encroachments have been reported to the foreign office, the last and most serious being the forcible occupation of Bluefields, the capital of the reservation, and other towns on the coast.

The Mosquito constitution and code of laws are well adapted to both natives and foreigners, and the Government is liberal. The Administration had many defects, and must change gradually to suit existing circumstances as commerce and civilization advances; but this does not concern Nicaragua, who has "no control" over the governing powers within the limits of the reserve. Now that these unwarrantable proceedings have taken place, we should like to know definitely how this country stands, and what step England will take. A British man-of-war was sent for by Her Majesty's consul at Grey Town some time back, but up to date it has not arrived.

I may here give an account of the beginning of this serious trouble. General Carlos A. Lacayo, the appointed commissioner to the reserve from Nicaragua, arrived here with a staff of officers on November 2, 1893, seemingly on a secret mission to annex the country. He erected immense buildings to serve as quartel offices and dwelling-house. Building a wharf out into the lagoon, he compelled all ships going up the river to take a pass from him here. He imposed a heavy duty on bananas, principally coming out of the reserve. From the first the natives had their suspicions as to his intentions, and murmurs of disapproval increased day by day. The chief and his council had their attention drawn to the matter, and they also began to look upon it with alarm. To favor the secret scheme there was the war between Honduras and Nicaragua.

About 200 soldiers came from Grey Town, without any notification to the chief, to be shipped to Truxillo. During their eight days' sojourn in Bluefields, on board the steamer *Mabel Comeaux*, the anxiety of the people was raised to an alarming extent, but upon the advice of the chief and his Government they did not do anything which might have helped to bring about the incorporation which they mortally dread. The soldiers left here for Cape Gracias a Dios, with an addition of volunteers consisting of Honduras rebels and many others of doubtful character. Other troops, sent for specially by the commissioner, arrived on the steamship *Miranda*, and were landed by small boats. When the chief again heard of the arrival of troops he immediately invited the commissioner to the Government house and put forward several important questions, one of which was whether he still respected the treaty of Managua and the award by the Emperor of Austria. To these questions he received very evasive answers. His Excellency then protested against the soldiers walking about the streets armed, it being quite

unnecessary and against the laws of the municipal government. This appears to have given great offense. No doubt the incident was misrepresented to the Nicaraguan Government, and the commissioner received secret instructions to take the bold step spoken of at once. If the chief had been courteously notified at the very first of the expected arrival of the troops and of their object, he would have used his best endeavors to accommodate and facilitate their movements to the frontier while hostilities between Honduras and Nicaragua were pending.

General Carlos A. Lacayo and General Rigoberto Cabezas have now taken over the whole management of affairs in the country, and have already filled up the several offices for the collection of dues and taxes, etc., by an entirely new staff. For these places there was no lack of applicants, principally foreigners, who rushed into the scramble for the plums of office. The generals are about to form a new code of laws, to govern according to the constitution of Nicaragua, and to get everything in working order before there is any investigation by Her Britannic Majesty's Government.

Business is almost at a standstill, and many people have closed their houses and taken refuge in the bush and up the rivers. Terror prevails where a few months ago all felt secure and happy. To add to this chaotic state of affairs, another revolution has broken out in the interior.

I also earnestly wish to call the special attention of England to the Moravian mission churches and schools that have been so long established in the country and supported in every way by the Mosquito Government, who gave annually a handsome donation from the treasury toward their support. This institution, which stands alone, has done much noble work among the Indians in educating them both spiritually and morally, and so bringing them gradually to a state of civilization. What is to become of them in a country where Protestantism is merely tolerated and the Sabbath only observed as a holiday, with drinking, gambling, bullfights, heavy betting around a cockpit, and reveling and fighting in the streets? Is this little Territory, that was at peace with the whole world, to be brought within the jurisdiction of a country that is always in a state of revolution and turmoil? Are all the enterprises that were built upon the existence of the treaty to diminish and gradually die out? A great deal of pressure will be brought to bear in many ways upon the merchants and residents that will compel them to quit, and so make room for the Spaniards to come in and fill up the vacancy.

Having laid before your readers the true facts of our present situation, I would advise England for the sake of her honor to take immediate steps to relieve a people from a future serfdom, and a prosperous little country from ruin, by a thorough investigation of all the wrongs this country has suffered, and insist upon the whole of the treaty of Managua and the award by the Emperor of Austria being carried out faithfully by Nicaragua. Even for diplomatic reasons she should not relax her hold in this little spot of Central America, which eventually she may need. Her Britannic Majesty's pro-vice-consul and the United States consular agent are doing their very best, in the interests of the people they represent, with the limited powers they have at their disposal.

FEBRUARY 25.

Early this morning Her Majesty's ship *Cleopatra* arrived from Grey Town with Mr. H. F. Bingham, the British consul, on board. Capt. Assheton G. Curzon-Howe, R. N., accompanied by his secretary, came



ashore with important dispatches to the Nicaraguan commissioner. Mr. E. D. Hatch, Her Britannic Majesty's pro-vice-consul, introduced the officers to Gen. Carlos A. Lacayo. On their return to the British vice-consulate, accompanied by a peaceable crowd, the Nicaraguan soldiers rushed down, shouting "Viva Nicaragua!" to disperse them with loaded revolvers and rifles, for the martial law forbids an assemblage of persons either walking or standing about. Fortunately an officer saw the danger that might arise, and stopped it just in time.

## FEBRUARY 26.

A meeting of investigation was held on shore to-day, Capt. A. G. C. Howe, R. N., and Mr. H. F. Bingham, British consul, representing Her Britannic Majesty, and Gen. Carlos A. Lacayo, the commissioner, representing the Republic of Nicaragua. The British representatives demanded that the Mosquito flag should be hoisted again, that martial law should be raised within a certain time, and that a written guarantee should be given for the lives of the chief and his late officials, but none of them to be replaced in office at present. The commissioner's plea that Mosquito was being misgoverned wholly by Jamaica negroes is entirely unfounded, and in any case it is of no concern to Nicaragua. The chief, whose life was threatened, has been in hiding since, but arrived here late this evening, and is now under the charge of the British consul. He is just 21 years of age.

## FEBRUARY 27.

All is quiet in town. Gen. C. A. Lacayo returned the official visit to Captain Howe on board the *Cleopatra* to-day. It is rumored he has telegraphed for further instructions to his Government. Her Majesty's ship *Cleopatra*, after landing fifty marines and two Gatling guns at the Bluff for the protection of the inhabitants against any disturbance, left for Colon or Jamaica this evening to cable for further instructions from the foreign office, and is expected to return in about four days.

## FEBRUARY 28.

The Mosquito flag was hoisted by the side of the Nicaraguan flag this morning. All seems quiet, but everything is at a standstill till the matter is settled. Many Indians, with their headmen, from the upper part of the coast are arriving here every day. Before this the Mosquito Government used to look after their accommodation and comfort, but now, as there are no buildings or funds, they will either have to be entertained by the Nicaraguan officials or depend upon the generosity of their friends.

As Her Majesty's ship *Cleopatra* has been here and taken the business in hand, our misgiving as to England's moving in the matter is at an end.

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*Mr. Braida to Mr. Uhl.*

CONSULATE OF THE UNITED STATES,  
Bluefields, March 29, 1894. (Received April 11.)

SIR: I have the honor to transmit herewith a decree issued last night and sent to me by the Honorable Minister Don José Madriz.

I beg to remain, etc.,

S. C. BRAIDA.



[Postscript.]

BLUEFIELDS, *March 31, 1894.*

I beg to add to my dispatch of the 29th instant a statement from the American citizens in answer to a written request from Minister Don José Madriz regarding complaints and wishes of our citizens, copy of which was forwarded to said minister yesterday.

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[Inclosure 1.]

*Decree.*

*Citizens of Bluefields:*

Having been sent here by the supreme Government for the purpose of arranging, on the basis of justice, all difficulties which have lately occurred in the reserve, I have, in compliance with the authority vested in me, issued the following decree. This decree shows distinctly that the views and aim of my Government are but to give and guarantee to the honest and laborious people of the reserve peace and prosperity. It was with pleasure that I accepted a mission that would again bring me among old acquaintances, enabling me to offer, in the name of Nicaragua, peace and liberty; and if you are, as I sincerely hope, satisfied, my object will have been accomplished. I desire for the inhabitants of the reserve every prosperity, and this I am sure they will obtain under the laws which my decree of to-day establishes, in which are included the strongest guarantees and the highest privileges.

JOSÉ MADRIZ.

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José Madriz, special commissioner of the supreme Government of Nicaragua in the *Mosquito Reserve*;

Considering that on the 19th instant the commissioner of the Republic agreed with Her Britannic Majesty's consul upon a *provisional* contract for the government of the Mosquito Reserve until the high contracting signators, parties to the treaty of Managua, dated 1860, arrange the needful regarding the reserve territory;

Considering that this contract was imposed by the circumstances and decided by the necessity of preventing the disputes arisen, caused from the *decree* dated the 12th of February last;

Considering that the present condition of affairs being investigated, any substantial change that would be made to the said contract would cause new stir and difficulties, which the commissioner is bound to avoid; and having only in view to grant all those guaranties, lead to establish the public confidence, to regulate the trade, and secure the order and peace, in use of his powers:

*Decree.*

ART. 1. The municipal authority of the Mosquito Reserve shall be exercised by the council formed according to the protocol of provisional contract entered into between the Nicaraguan commissioner and Her Britannic Majesty's consul.

ART. 2. The powers of the provisional council are the same exercised by the old executive council, subject to what is directed in Article XIII of the present decree.

ART. 3. The provisional council shall regard and guarantee to all the inhabitants of the reserve, either Nicaraguans or foreigners, the personal safety, the liberty, the equality, and the property in the established form provided by the laws of the same.

ART. 4. No authority of the reserve shall issue contrary resolutions to the established worship, and the laws, usage, and customs as regard religion shall be strictly respected.

ART. 5. No military recruitment shall be made within the Mosquito Reserve, and all residents in the same remain free from all service or war tax.

ART. 6. The police security shall not be exercised by military force.

ART. 7. The former language shall be maintained by the authorities and people of the reserve.

ART. 8. The provisional council shall proceed at the earliest possible time to settle the public debts of the reserve.

ART. 9. The treasurer, under his own responsibility, will not pay any amount which is not previously voted by the provisional council.

ART. 10. The treaty of commercial reciprocity between the Republic of Nicaragua and the United States shall henceforth be considered extensive to the custom-houses of the reserve.

ART. 11. The commissioner, in his representative capacity of the sovereign authority of the Republic, shall previously examine the resolutions issued in future by the provisional council, with the sole purpose of deciding whether they are consistent with the essential laws of Nicaragua.

ART. 12. All resolutions issued by the sovereign power shall be faithfully executed within the reserve, and the Nicaraguan authorities shall take care that such resolutions do not contain anything contrary to the municipal privileges.

ART. 13. The former laws of the reserve, whether civil or penal, shall remain in force, inasmuch as they shall not oppose the stipulations of the said contract and the sovereign rights of Nicaragua.

Given in Bluefields this 28th day of March, A. D. 1894.

JOSÉ MADRIZ.

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[Inclosure 2.]

*Statement of committee—American citizens.*

To the AMERICAN CONSUL, *Bluefields*.

HONORABLE SIR: Whereas we, the American citizens resident here, have been requested by your honor to put forth our wishes, desires, and grievances in reference to the unsettled condition of affairs in the Mosquito Reservation, by these presents do respectfully call your attention to the following facts:

We have come here under the guaranties and liberal privileges extended to us by the treaty of Managua of 1860, and have consequently invested our capital, intelligence, and labor, which is now jeopardized by the events which have happened since the 12th of February.

On that date Nicaraguan troops, under the command of the Nicaraguan commissioner and the newly appointed inspector-general of the Atlantic coast of Nicaragua, took possession of the town and reservation, deposed the authorities, and put the place under martial law, when there had not been nor was any resistance at all offered to them.

Once the authorities removed, they took possession of all public buildings and property of the Mosquito Government, and, opening the prison doors, set free the felons therein upon the community.

The soldiers were undisciplined and fanatic, and could not be controlled by their officers, and committed various outrages.

The inhabitants were nigh driven to desperation and a condition ensued which endangered life and property.

The commissioner, although immediately setting about the collection and imposition of duties and taxes, refused on the other hand to recognize the valid obligations of the Mosquito Government.

He remarked that he would just run things to suit himself, and if people did not like it they could leave the country.

Again, he threatened to take lands owned by the natives and sell it.

Miners holding titles to their claims under and from the Mosquito Government were warned by him that their grants would not be recognized, and, in fact, he expressed himself to the effect that likely all the leases, titles, contracts, and concessions would be void and not recognized by his government.

The commissioner has deceived the people so frequently that they have lost all confidence in him.

This menacing conduct and threats frightened the natives until nearly 150 families have left the reserve.

The labor of the country is composed of such people as have thus gone away, which is likewise ruinous to the commerce of the port.

It has also been made imminent that a change of the language would be enforced, and this would work a great hardship on everyone.

The duties and export tax which the commissioner placed on fruit can not be considered but to the detriment of the fruit trade, the leading industry of the country.

Neither can we judge it judicious that small crafts plying between local ports are compelled to take out papers at exorbitant rates.

Duties have been charged on goods taken to other points in the reserve, when said goods had already paid duties in Bluefields.

In Rama the treatment of Americans has been such that we feel assured, should Nicaragua govern the reserve, we would receive the same treatment.

The fruit business in Rama has been seriously hampered by the petty decrees of her governors, and the continued detention of steamers, barges, etc., loaded with fruit have caused heavy losses to the ship agents.

Captains of steamers and barges have been heavily fined for passing the custom-house at Rama after having asked permission, which was refused, and having leaky barges, they would have lost barge loads of fruit by the next morning.

We also particularly denounce the foul murder of William Wilson in Rama, and demand that his assassin be punished as this crime deserves.

We are not devoid of experience; the wretched state of Grey Town, San Jacinto, and Cape Gracias a Dios is a mark of warning, and while we are peaceful and law-abiding citizens in this community, and do not wish to antagonize Nicaragua, and with all due deference to her sovereign rights, we desire to have here a local self-government (free from the frequent revolutions which occur in the interior) based on the lines laid down by the treaty of Managua.

SAM. D. SPELLMAN,  
JAS. H. LAMPTON,  
PAUL OSTERHOUT,  
W. F. THORNTON,  
H. R. SEIGERT,

*Committee.*

MARCH 29, 1894.

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*Mr. Braida to Mr. Uhl.*

CONSULATE OF THE UNITED STATES,  
*Bluefields, March 31, 1894. (Received April 11.)*

SIR: I beg to inclose herewith correspondence with the British vice-consul in regard to the formation of a provisional Government for the Mosquito Reserve, and my note to Gen. C. A. Lacayo in reference to the same.

I am, etc.,

S. C. BRAIDA.



[Inclosure 1.]

*Mr. Hatch to Mr. Braida.*

BRITISH VICE-CONSULATE,  
*Bluefields, Mosquito Reserve, Nicaragua, March 31, 1894.*

YOUR EXCELLENCY: In answer to your dispatch of to-day's date I beg leave to state that in my opinion the Provisional Government has been formed in accordance with protocol of 19th instant (see this protocol, marked Basis, in inclosure in No. 32), made between His Excellency Carlos A. Lacayo, commissioner to the Mosquito Reserve, and Her Britannic Majesty's Consul H. F. Bingham, esq.

I have, etc.,

EDWIN D. HATCH,  
*Acting Vice-Consul.*

[Inclosure 2.]

*Mr. Braida to General Lacayo.*

SIR: Since the receipt of your communication of the 24th instant in regard to a provisional council having been established, I have repeatedly requested the representative of the other high contracting party, Vice-Consul E. Hatch, to inform me whether this council was formed in compliance with the compact made between your excellency and Her Britannic Majesty's Consul Bingham.

Having been informed by Vice-Consul Hatch this morning that he, in behalf of his Government, considers said council formed according to the agreement, I have the honor of thanking you for your kind information.

I am, etc.,

S. C. BRAIDA.

*Mr. Gresham to Mr. Baker.*

[Telegram.]

WASHINGTON, *March 31, 1894.*

Time Department had full report of situation Bluefields. Braida instructed he had no diplomatic functions.

*Mr. Gresham to Mr. Baker.*

DEPARTMENT OF STATE,  
*Washington, April 2, 1894.*

SIR: I have received your two dispatches of the 9th ultimo, relative to the disturbances at the Mosquito Reservation, stating that this Government has not failed to take the action which appeared proper to the end of protecting American interests there.

I am, etc.,

W. Q. GRESHAM.

*Mr. Baker to Mr. Gresham.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
*Managua, April 6, 1894.*

Have no report from Braida yet. British Consul Bingham reports, date March 24, owing to disturbances Bluefields, British seamen were landed at request of Nicaraguan commissioner. Captain sent the United States vice-consul and other consular representatives to maintain order and preserve life and property. Were retired as soon as Nicaraguan commissioner formed police force. American residents presented captain with testimonial thanking him for prompt and effective protection. Nicaraguan commissioner also wrote letter of thanks. All reports to contrary are false.

*Mr. Baker to Mr. Gresham.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
*Managua, April 9, 1894.*

One hundred Nicaragua troops leave here to-morrow for Bluefields to perform police duty.

*Mr. Baker to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
*Managua, April 10, 1894. (Received May 15.)*

SIR: Herewith I hand you a copy of the agreement entered into at Bluefields on the 19th of March for the temporary government and the preservation of the peace of that place. The Spanish copy of this agreement was furnished me by the foreign office of Nicaragua, and I accompany it with an English translation.

I have, etc.,

LEWIS BAKER.

[Inclosure.—Translation.]

*Mr. Rivas to Mr. Baker.*

NATIONAL PALACE,  
*Managua, April 2, 1894.*

MR. MINISTER: With the present communication I have the honor to remit to your excellency an authorized copy of the telegram directed to His Excellency the President by the commissioner of the Mosquito Reserve, enunciating the basis stipulated with the English consul for the provisional administration of the said reserve.

I am, etc.,

R. MAYORGA RIVAS.

*Basis for the provisional administration of the reserve.*

[Telegram.]

Deposited at San Juan del Norte at 6 p. m. of the 23d of April, 1894. Received at the palace at 8.25 of the 30th.

BLUEFIELDS, March 22, 1894.

MR. PRESIDENT: The 19th instant another arrangement was concluded with the English consul by which all differences will be repaired for the better organization of the provisional government of this municipality.

Basis for the provisional administration of the Mosquito Reserve until the high contracting powers resolve the diplomatic question that has been raised.

First. There will be a civic municipality, composed of seven members, of which two will be appointed by the commissioner, two by the American consul, and one by the English consul, and another by the Indians, and another by the creoles. The commissioner will be the president of the council, and in case that those who shall be appointed by the said members of the council do not proceed forthwith to the appointment, the commissioner is at liberty to select those that he may deem proper.

Second. All the citizens of Bluefields, registered, of more than 21 years of age, will be jury liable for duty in criminal cases; and of these same citizens a list of fifty members will be drawn with the object of forming a jury of appeal for civil cases. These fifty members must be persons of property who know how to read and write, and with residence of more than three years in the place. There will be a justice of the peace to prepare the civil cases and bring them to the knowledge of the jury.

Third. Four of the seven members of the provisional council will form a quorum.

Fourth. The custom-house officer, the secretary of the provisional council, and all the rest of the employees of the reserve will be appointed by the commissioner.

Fifth. The tariff and duties will be levied on the same footing as the old tariff of the civic municipality. The product, or what may be the same, the money collected, will be delivered to the treasurer, who will pay the disbursement only on the order of the commissioner; but the net product of the rents can only be used in the proper expenses of the reserve or in the improving of the public works, such as ways of communications, etc.

Sixth. In the villages, and in behalf of the Indians, there will be a judge elected by the same Indians and he will be their representative before the provisional council and before the commissioner.

Seventh. The police force will be appointed by the provisional council. The chief of the police will be appointed by the same council, subject to the approbation of the commissioner.

Eighth. The council will meet directly, and the police will be organized within the twenty-four hours after the installation of the provisional council.

Ninth. When the commissioner does not deem it convenient to preside, the council will appoint the person that shall replace him.

C. A. LACAYO.

It is confirmed. Managua, April 2, 1894. Seal of the foreign office. Attested.

MAYORGA RIVAS.

*Mr. Baker to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
Managua, April 10, 1894. (Received May 15.)

SIR: In a talk, yesterday, with the President of Nicaragua, he informed me that this Government proposed sending to Bluefields a body of 100 soldiers, to be stationed at that place for the performance of police duty. His contention is that Nicaragua is charged with the duty of preserving the peace; and that this Government is responsible if life or property should be destroyed. This duty carries with it the right to take the necessary steps for the protection of life and property.

In the same conversation he requested me to inform the United States consul at San Juan del Norte and also the consular agent at Bluefields of his purpose.



I did not discuss with the President the soundness of his position in view of the various treaties, or the unusual political relations which this Government occupies toward that territory. But I concluded to send the letters requested, a copy of which is herein inclosed.

I have the honor, etc.,

LEWIS BAKER.

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[Inclosure.]

*Mr. Baker to Dr. de Soto.*

LEGATION OF THE UNITED STATES,  
Managua, April 10, 1894.

SIR: At the request of His Excellency President Zelaya I write to inform you that this Government has determined it best, in the interest of peace and good order, to station a company of 100 soldiers at Bluefields. They will accordingly leave for that place to-day.

I do not see that you are called upon to take any action in the premises, and I send you this notice only for your information.

I am, etc.,

LEWIS BAKER.

Identical note sent to B. B. Seat, esq., United States consular agent, Bluefields, Nicaragua.

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*Mr. Gresham to Mr. Baker.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, April 17, 1894.

Your failure to send full information in regard to Bluefields incident has been embarrassing here. You should go there at once. No officer of this Government was authorized to participate with Nicaraguan authorities and British consul in organizing provisional administration.

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*Mr. Gresham to Mr. Bayard.*

DEPARTMENT OF STATE,  
Washington, April 30, 1894.

SIR: I received your dispatches in relation to the Bluefields incident, of the 16th, and of the 29th ultimo.

It is gratifying to note your entire familiarity with the subject and the discretion you have shown in treating the question with Lord Kimberley.

The confused reports of the recent occurrences which from time to time reached the Department from our diplomatic and consular representatives in Nicaragua did not permit an intelligent review of the incident, and I have been obliged to await the report of Captain Watson, commanding the *San Francisco*, which was at once ordered from Brazil to Bluefields when the unfortunate loss of the *Kearsarge* defeated the purpose of this Government to obtain earlier information.

I inclose for your perusal a copy of Captain Watson's report under date of April 16, with its accompaniments.<sup>1</sup> \* \* \*

It appears to be conclusively established that the British naval and consular agents in Nicaragua have joined with the Nicaraguan commissioners in various arrangements for the administration of local government in the Mosquito Indian Reservation. The first of these agreements, reached in conferences held on February 26 and 27, between the Nicaraguan commissioner for the reservation, Señor Lacayo; the British consul at San Juan del Norte, Mr. Bingham, and Captain Howe, of H. M. S. *Cleopatra*, appears not to have been completed and announced until March 4, after the *Cleopatra* had visited Colon for the purpose of receiving instructions from London. It would seem that Her Majesty's Government had cognizance of the proposed arrangement. The provisional agreement of March 4 proving abortive, it gave place to another understanding reached on March 19, between the same parties, which does not appear to have been announced until approved, on March 25, by the newly arrived special commissioner of Nicaragua, Señor José Madriz, the Nicaraguan minister for foreign affairs, by whom it was incorporated and proclaimed in a decree, dated March 28, purporting to establish a provisional government for the Mosquito Indian Reservation.

These several arrangements in terms rest upon what are called "contracts" and "protocols" between the representatives of Great Britain and Nicaragua. By Señor Madriz's decree of March 28, these arrangements are to last "until the high contracting signatories, parties to the treaty of Managua, dated 1860, arrange the needful regarding the reserved territory."

I am unable to see that this joint assumption of authority by British and Nicaraguan agents is compatible with the stipulations of the treaty of Managua. By that treaty Great Britain renounced all sovereignty over the reservation and recognized the sovereignty of Nicaragua over the same, and Nicaragua agreed that the Indians should enjoy "the right of governing according to their own customs, and according to any regulations which may from time to time be adopted by them not inconsistent with the sovereign rights of the Republic of Nicaragua, themselves, and all persons residing within such district," subject only to the future contingency of their agreeing "to absolute incorporation into the Republic of Nicaragua on the same footing as other citizens of the Republic, and \* \* \* subjecting themselves to be governed by the general laws and regulations of the Republic, instead of by their customs and regulations."

The stipulations exclude all idea of local government by others than the Indians in the reservation. They allow no room for foreign intervention in the government of the reservation, or for the administration of the affairs therein by resident aliens.

That the provisional plan formulated by the representatives of Nicaragua and Great Britain provides for the appointment of American, Indian, and Creole representatives on the proposed governing commission in nowise alters the essential character of the transaction. The arrangement itself rests upon no sound basis of existing right. Its tendency can only be toward fortifying the assumption that "Mosquitia" is a territorial entity with sovereign rights.

The agents of the United States in Nicaragua have had no part in framing the reported provisional arrangement, and they have signified their intention not to participate in its administration. The proceed-

<sup>1</sup> Not printed.



ing has not, and can not have, the sanction of this Government, directly or indirectly.

I am pleased to see by Captain Watson's report that the landing of British forces in the territory was simply for the protection of life and property—American and native as well as English—and that it has not lasted longer than was warranted by events. \* \* \*

With the foregoing views and the inclosed papers before you, you are in a position to express to Lord Kimberley the President's hope and expectation that the anomalous situation now disclosed may speedily cease and that no foreign agency shall be permitted to dictate or participate in the administration of affairs in the Mosquito Reservation.

I am, etc.,

W. Q. GRESHAM.

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*Mr. Baker to Mr. Gresham.*

[Confidential.]

UNITED STATES LEGATION,  
*Bluefields, May 2, 1894.* (Received May 11, 1894.)

SIR: In obedience to your cable of the 18th of April, received by me at Managua, I immediately sought to make arrangements for my conveyance to Bluefields via Grey Town. After a most difficult trip, changing conveyances nine times in consequence of the low stage of water in the San Juan River, and the many obstructions, I arrived at the latter place on the 25th of April. Capt. J. C. Watson, of the U. S. S. *San Francisco*, having accidentally heard at Port Limon, to which among other points, I telegraphed inquiring for means of transportation from Grey Town to Bluefields, kindly ran in and picked me up, landing me at Bluefields on the 26th.

I lost no time in procuring an office and commencing a careful investigation into the condition of affairs as they exist at this time. I first invited the most prominent and intelligent citizens of the place, embracing natives, Creoles, Jamaicans, officers and ministers of the Moravian mission, and American and other foreign business men, to call upon me, either singly or in pairs. These men willingly responded to my invitation, to all my questions in search of information, and in many ways contributed to my stock of knowledge as to the recent past and the present condition of affairs in the Mosquito Reservation. I have rigidly examined 21 of the most intelligent and trustworthy citizens of this place, and had several of them prepare for me brief communications in writing upon special points or phases, copies of which communications will accompany this dispatch.

This is a prosperous community from Bluefields to Rama, a distance of 60 miles, a remarkably thrifty community for Central America—the most prosperous, I think, within the five Central American States. The trade is considerable already, has been rapidly growing until it received the recent violent check, and is substantially all with the United States.

Its most enterprising business men are chiefly Americans. The town is American to the core. There is no semblance of the slothful, indolent, and filthy habits so conspicuous in the interior towns. The houses are clean and handsomely painted; the women dress neatly, and are not made beasts of burden; the men are busy at useful occupations and do not devote their time to petty politics, cockfighting, and parading with muskets. The community has been peaceable throughout. No



soldiers existed, for none were required. The civil power has always had full sway, and justice has generally been secured through the courts.

I will invite your attention to the fact that all Spanish or Nicaraguan towns, however small, are governed by military governors; military barracks are the most conspicuous buildings of the respective towns, and the marching of armed men, the beating of the drum, and the screeching of the fife are at all times before the eyes and filling the ears of the citizens. The majority of the men spend their time in places of resort, discussing politics, plotting revolutions and the like, while the women earn the living.

\* \* \* \* \*

Several places—such as Rama, Cape Gracias á Dios, and Corn Island—were formerly prosperous communities under the mild rule of the authorities of this reserve. They now have their military governors and are ruled by autocratic military power. The former prosperity of these places has departed; their former enterprising citizens have been driven out, their business ruined by crushing taxation and the lack of security to life and property.

There is a distinctively antagonistic feeling among the Spanish Nicaraguans toward Americans. The former are jealous of the enterprise and prosperity of the latter. This is in marked contrast with the sentiments and actions of the ruling elements in Costa Rica. There Americans are heartily welcomed. The Nicaraguans say that Americans come here, get rich in a few years, and then carry their wealth to the States. The fact is to the contrary; the Americans spend money liberally in improvements which add to the prosperity of the country.

\* \* \* \* \*

2. There are a large number of Americans in business—agriculture, mining, lumbering, and in commercial enterprises—who have acquired titles to lands. Many have expended large sums of money in improving and developing their lands.

\* \* \* \* \*

3. Substantially everybody—business men and laborers—in this reserve use the English language and they know no other. The Nicaraguans insist that the Spanish language must be used in all business and public affairs, in the courts, etc. This would be a grievous hardship to the citizens.

4. It is proposed by the Nicaraguan Government here to sell to a company of favorites, partly composed of foreigners but not Americans, an exclusive concession for the navigation of this river of Bluefields, which stream has had free navigation always heretofore, and upon whose waters a commerce of several millions of dollars annually are carried, some twelve or fourteen ocean steamers going up as far as Rama—60 miles—per month, to gather bananas and other produce. To compel all these steamers now to pay a private company for the privilege of prosecuting the business which they have been many years in building up, by thus destroying the free navigation of this river—a river which has rightfully been as free as the ocean—would be an injustice, and would destroy the prosperity of the entire valley.

5. No American here has denied to Nicaragua the sovereign power over this territory, but they do believe they have a right to appeal to the Government of the United States with confidence that that Government will use its best offices with the Government of Nicaragua for the protection of their vested rights in this territory, and for securing

to them a local government which shall protect them and their families in their persons and property.

6. The feeling between the natives and foreigners on the one hand, and the Nicaraguans on the other, is such, that until the Government of the United States shall secure from Nicaragua, by treaty or otherwise, the protection of the former in all their vested rights, an outbreak may be provoked by the insolence of Spanish officials at any time; therefore, it will be necessary for a United States man-of-war to remain as close to this harbor as possible, until the two Governments come to an amicable understanding by which American residents will be protected.

7. The natives of every shade are in full accord with the Americans. The Nicaraguans, being of different blood, speaking a strange language, possessing radically different ideas of methods of government, \* \* \* can not assimilate with the English-speaking people here—one or the other must remain dominant; the other will, either gradually or suddenly, get out.

8. Accompanying another brief dispatch, No. 262, of even date, I send several inclosures. For a history of events leading up to the present condition of affairs, I respectfully refer you to a paper furnished me by Judge J. O. Thomas, who was for many years a judge of the supreme court as well as a member of the executive council of the reserve, which accompanies this, marked Inclosure No. 1; and for a succinct account of the recent happenings, I desire that the official dispatch to the Navy Department of Capt. J. C. Watson, U. S. S. *San Francisco*, dated April 16, and his dispatch to the same, dated April 28, be read in connection with this.

I have patiently verified every fact set forth in both these dispatches, but have not deemed it necessary to travel over the same ground in making my report to the State Department.

9. For a synopsis of the laws upon which the land titles in this reserve rest, I respectfully refer to Inclosure No. 2, furnished me by the Messrs. Hodgson and Ingram. These gentlemen are all men of learning in the law, one of them has been a judge in the supreme court, and a land commissioner, another one clerk of that court, and the third a member of the executive council.

Inclosure No. 3 is a statement from the two chief officials of the Moravian mission in this territory.

I had conversations with these men, and I am impressed with their intelligence, sincerity, and with their extensive knowledge of the people—the natives of this country.

\* \* \* \* \*

I will remain here probably two weeks yet, leaving for Grey Town about the 13th of May. It is possible that I may be compelled to return via Colon, as the transportation on the San Juan River is of the most difficult character; but do not send mail to me at this point, as it can not reach me.

The special commissioner from Nicaragua, Mr. José Madriz, late minister of foreign affairs, returns to Managua by the first steamer, to present his report and recommendations to his Government.

The British minister, Mr. Gosling, arrived at Managua shortly after I left there.

Awaiting your instructions at Managua, I am, etc.,

LEWIS BAKER.



[Inclosure 1.]

*Mr. Thomas to Mr. Baker.*

MOSQUITO RESERVATION,  
Bluefields, April 28, 1894.

HONORED SIR: It gives me pleasure to see you in Mosquito. The circumstances actuating your visit may not be a pleasant one, but as your calling will bring you on the platform to witness such occurrences and events as the one now pending between the Mosquito Reservation and the Republic of Nicaragua, I am glad you have undertaken the long journey and have arrived here safe, where I sincerely hope you may be able to lift the curtain and see and hear for yourself.

I arrived here (I mean in Bluefields) in the month of September, 1859. I made this visit for the purpose of seeing the country and in prospecting its natural resources. I had some capital, and was willing to invest in any new country where I would have the prospect of locating and rising with the country as it might be developed from time to time. After spending some money in prospecting the coast and the interior of the Mosquito country, I found, to my great satisfaction, that the lands were some of the best for the cultivation of the sugar cane, coffee, cocoa, anatto, rice, cotton, Jamaica ginger, cocoanuts, and all other tropical fruits, including the banana, which was just then finding its way into the United States markets at very remunerative figures.

I found that the forests abounded in mahogany, cedar, rosewood, pitch pine, and other hard woods of value. On the coast there was a good supply of turtle-shell, hides, skins, canoes, cocoanuts, etc. I then turned my attention to the customs, laws, and government. Of course I knew the country was under the protection of England, and thus, with what I had seen of the people, I was satisfied that such a people, with such a country, and with the aid of the inhabitants of the outside world, would in time rise to some significance. I also found that the two languages spoken were English and Mosquito, and, as English was the commercial language, that some day it would be the language of the land. But, best of all, I observed to my great joy that the Protestant religion was the religion of the land, and that the good old English translation of the Bible was the principal book of the schools, and that the Mosquito children and all the other children were taught to read and write English. I felt myself and capital safe, and with all that I had seen was satisfied.

You will excuse me if I go over the historical events of this country by leaps and bounds, as it would take up too much time to speak of all in the past of this country's history from 1859 up to the present time.

You will remember that in 1860 Her Britannic Majesty's Government entered into treaty relations with the Republic of Nicaragua touching the Mosquito coast. This treaty, as you are well aware, is known as the treaty of Managua, which was ratified at London 2d August, 1860. After the ratification of the treaty the then hereditary chief of Mosquito, George Augustus Frederick, at a public convention of the head-men of the Mosquitos and of the mixed population, on the 12th day of September, 1861, at Bluefields, Mosquito Reservation, addressed the audience in the following words (in Mosquito and then in English):

GENTLEMEN: I am happy to meet you, and trust that you will be satisfied that in calling you together I am acting for the best interests of the people who are now or may hereafter inhabit or become residents within the Mosquito Reservation. All communities of persons should have a definite and regular form of government, by which the interests, of each and every person should be fully and legally protected



in life, liberty, and property. Having lately made and entered into treaty engagements with the State of Nicaragua, through the good offices of Her Britannic Majesty's Government, wherein the extent of the reservation and the civil and political rights of all persons within the said reservation are defined, I am desirous of forming a government adapted to our wants. For that purpose I have called you together in public convention to assist me in thus forming a government, and I hope that those persons who shall be recommended by you and appointed by me as the members of the general council will enter upon their duties with a firm determination to act in good faith and for the best interests of all. My wish and desire is to place the people residing upon the Mosquito Reservation—natives and foreigners—in the best possible condition as regards their present and future welfare, and you may depend that I shall be always ready to act with you for that purpose with the utmost good faith and sincerity, hoping by so doing to place our future government upon a firm and solid basis. And now, gentlemen, I am ready to appoint the council from and among those whom you may recommend to me for that purpose. I hope the appointment of the general council will give satisfaction to all and confidence for the future.

You will by this first convention perceive the drift of the government, and that this reservation or territory, as set apart by the several conditions of the aforesaid treaty, and as mapped out by Great Britain and Nicaragua, and particularly described by the two contracting parties from the Mosquito country, as a state of free men who are to govern themselves—not as an unsettled horde of wandering savages not yet formed into a civil society; not as a voluntary association of robbers or pirates; but as members of this country or state they were already accustomed to give to their sovereign a habitual obedience as their superior, and faithfully acknowledged the power vested in him.

The members of the Mosquito state had their fixed abode, and all who are acquainted with the history of America, and that of Mosquito, must admit that the Mosquito Indians, and all persons residing among them before the treaty of Managua, enjoyed, occupied, and governed a definite state belonging to them and exercising an internal as well as an external sovereignty, and were ever ready to punish evil and uphold good. The treaty stipulations, taking from the Mosquito country a large portion of territory and retaining to the Mosquitoes and all who may live among them a reservation conceding to them their right of self-government, made it incumbent on the Mosquito chief, his headmen, and all those that may live among them, to adopt a constitution.

This constitution was drawn up and adopted by the chief and vice-president and the members of the general council, and subsequently approved by both contracting parties. Up to this time there were no Spaniards within the Mosquito Reservation, to the exception of one man, a Colombian, who resided at the mouth of the river "Walpa Sixah," and having a Mosquito woman as his wife. The Spaniards were universally hated by the Indians, while the British and all other foreigners were loved and respected.

I am not aware if you are acquainted with the constitution of the Mosquito Reservation, and as you may not be posted, I take pleasure in copying for your consideration articles 1, 2, 3, 4. (See also 5, 6, 7, 8, 9, 10, 11, 12, 13, Mosquito Code, p. 12.)

ART. 1. The official name of the government shall be "The Municipal Authority for the Government of the Mosquito Reservation."

ART. 2. The boundaries of the said reservation are and shall be as fixed and set forth in the second article of the treaty of Managua, dated the 28th of January, 1860, as follows: (See article 2, treaty of Managua.)

ART. 3. The municipal authority shall be vested in and consist of the general council and an executive council.

ART. 4. That conformably with an act of the Mosquito council, dated October, 1846, entitled an act confirming the establishment of the laws of England as the same are now, or may hereafter be, known and acknowledged, shall be, and the same are

hereby, made the laws of the municipal authority of the Mosquito Reservation, so far as the same can be made applicable to the present and future position, circumstances, and form of authority, and when the same shall not be inconsistent and at variance with the sovereignty of Nicaragua.

There are established within the Mosquito Reservation four courts: (1) the court of impeachment; (2) the supreme court; (3) the local magistrate's court; and (4) the court of arbitration. All these courts regulate the civil and criminal laws.

Grand juries are not considered necessary; therefore no grand jury is summoned or impaneled.

There is trial by jury in the supreme court, both criminal and civil. All trials of criminal cases are tried by a panel of six. The jurors are chosen from the most respectable citizens of the reservation, natives and foreigners. All persons accused of crime may at time of trial object to any juror whom he may not approve to sit on the trial; if so, another juror is called. As a rule, all foreigners are tried having an equal number of foreigners and natives as jurors. In civil cases the same number of jurymen are impaneled. Defendants and plaintiffs have option to demand a special jury to try their causes if they deem it necessary, or, if agreeable to both parties, may desire the judges to settle the case without a jury. New trials are allowed in civil matters in the supreme court.

The supreme court possess the jurisdiction of a law and equity court. There may be appeals from the magistrate's court to the supreme court, but the decisions of the supreme court are final.

Both foreigners and natives are prompt to answer the call of the judges when summoned by the clerk of the supreme court for the trial of causes.

Although there are a great many strangers arriving within the past five years, yet it can not be said that crime is on the increase up to our last court.

To discard from your mind any prejudices that may be impressed on you by unprincipled newspaper writers, who would lead the public to believe that the government of the Mosquito Reservation is wrested from the Mosquitos by Jamaica negroes who are British subjects, etc., you will permit me to lay before you the names of the persons who represent the executive council of the Mosquito Reservation.

His Excellency Robert Henry Clarence, chief and president, native full-blooded Indian; Hon. Charles Patterson, vice-president, native of Pearl Lagoon, quadroon; Hon. J. W. Cuthbert, attorney-general, Jamaican mulatto, British subject; Hon. John Taylor, judge supreme court, native Corn Island, quadroon; Hon. Sa. Hodgson, judge supreme court, native of Bluefields, black; Hon. John O. Thomas, judge supreme court, Jamaican British subject, mulatto; J. W. Cuthbert, junior secretary, native of Pearl Lagoon, mulatto; J. S. Hodgson, native of Bluefields, mulatto; G. A. Hodgson, native of Bluefields, black; H. C. Ingram, native of Bluefields, mulatto; J. W. Howel, native of Bluefields, black; J. A. Peterson, American citizen, white; H. U. Hodgson, native Bluefields, mulatto; Benjamin Ellis, native of Pearl Lagoon, black; Edward McCray, native Rama Key, full-blooded Indian; Gus Daniel, native Rama Key, full-blooded Indian; David Benjamin, native Rama Key, full-blooded Indian.

There is also a general council of the above persons and twenty-eight Mosquito Indians, all of whom are chosen and elected by the Mosquito Indians and other persons who may live among them. The term of office is five years, when new elections take place at the expiration of the term.



You will now see by careful inquiry and by the above list that there are only two Jamaicans who are British subjects in the general and executive councils, and these two are J. W. Cuthbert and John O. Thomas.

After the ratification of the treaty of Managua "conflicting views on the proper interpretation of the treaty commenced between the two Governments, and Her Majesty's Government, finding it impossible to reconcile the Government of the Republic," consented to allow the points at issue to be decided by arbitration. The Government of Nicaragua being willing, the Emperor of Austria was selected, and in 1881 the Emperor decided. It was in 1879 the questions in dispute were agreed upon by both Governments to be settled by arbitration. (See Award Emperor of Austria, pp. 11, 12, 13, 22, 23, 24, 25, 26, 27, 28, 29.) It is sad to say that before the arbitration was concluded—nay, just when it was about to be submitted—the then young chief, William Henry Clarence, the nephew of George Augustus Frederick, a young man, intelligent and bold, being well educated, and who would be a help to his country, was murdered in this town by a Nicaraguan Spaniard. This man was captured, tried, and, being condemned, was hung in Bluefields.

There have been two other chiefs, Hendy and Jonathan, who have died since W. H. Clarence, and the present young chief, Robert Henry Clarence, is the son of the murdered William H. Clarence.

Immediately after the arbitration the inhabitants of the reserve, feeling that the landbands of Nicaragua was somewhat weakened by the award of the Emperor of Austria, a new enterprise was started, and the long-cherished desire of tilling the soil came into operation by the cultivation of bananas.

We commenced in good faith, under the conditions of the treaty of Managua, to expend our capital, and invited foreign friends to take part, feeling assured that the lands were well adapted, and that, the markets of the Southern States being near at hand, we would be sure of success. Under the clear and strong conditions of the treaty we invested our moneys and worked hard to carry out the new undertaking. In 1882 bananas were the theme, and the banks of the Bluefields River were made noisy by the ax of the woodman. Plantation after plantation sprung up, and in 1883 the planters were able to make a commencement in shipping about 2,500 bunches per month, or about 30,000 that year. Now, with all the disadvantages of a jealous and unscrupulous people, the reservation in about ten years has reached an exportation of millions of bunches of bananas that find a ready market in the United States.

This great success drew large capital and capitalists from the United States to come and settle in the reservation, and to-day, if it was not for the high-handed outrage committed by Carlos A. Lacayo, the said commissioner to the reservation, and one Rigoberto Cabezas, I am confident that hundreds of Americans and other foreigners would find their way to us, and the next year would have found us mounting the ladder, and, instead of ten or twelve steamships, as we now have here per month, the country would bring forth her extra millions of bunches of bananas, and our harbor, while capable of affording shelter for the extra ships, their return cargoes would gladden the hearts of our friends in the United States, and the merchant, the man, and the Government of the Mosquito Reservation would receive a fair share as compensation for the prosperity of the land.

Mr. Carlos A. Lacayo came to the Mosquito Reservation sometime



in the month of November. Shortly after his arrival Admiral Benham arrived in the *San Francisco*. Mr. Lacayo said he came to Mosquito as the commissioner to the reserve. He brought a letter from the governor of Grey Town, but showed no credentials from his Government or President. He was not officially acknowledged when the admiral arrived here, but the day on which the admiral was welcomed Lacayo was also welcomed. Up to that time he had not shown his credentials, nor has he shown them to the chief yet.

Shortly after his arrival he affirmed that he came to incorporate the reservation, and this he made no secret of. In the month of January he got together a large body of soldiers, principally Honduraneans, a few Nicaraguans, and some Americans, and attempted to land arms and ammunition, and did land arms and ammunition. Mr. H. U. Hodgson, one of the magistrates, told him that he was wrong, and informed him that he could not allow it. The chief was then informed, and a few days after more troops came from Rama, and reports were all over town that Lacayo had said he was about to capture the town of Bluefields. The people became quite alarmed and excited, and appealed to the chief; the chief then protested and informed Lacayo that he could not allow the soldiers about town armed, as they were creating an excitement among the people, and that there may be trouble.

Lacayo then said that they were to be sent away for the coast of Honduras. They were sent away with the understanding that they were bound for Truxillo, but they never went further than the cape—many of the officers returning and leaving the men—the officers reporting that they had a great battle with a body of Honduran troops, which body were only a few Honduraneans. In the fight three of the Nicaraguan men were killed, but no Honduraneans, as both parties ran from each other.

On the return of the officers from Cape Gracias most of them left for the interior. Cabezas, who was thwarted in his attempt, threatened Lacayo, and then Lacayo, prompted by Cabezas, sent for the next lot of troops intentionally to invade the reservation and capture Bluefields. Lacayo, who can not keep his tongue, made this known to many persons, and it appears that it was known in Grey Town. On Friday the steamship *Miranda* arrived, bringing troops. The commissioner told a merchant that he had on board 250 men and a piece of artillery, and that if he was opposed in landing the men he would bombard the town. This news of the troops went like wildfire through the town, and much alarm was caused, Lacayo seeming to take pleasure to torture the weaker minds by his malicious reports of large numbers, etc. The chief, seeing the danger, called together his advisers, and we concluded to invite this commissioner and speak over the matter. Two gentlemen were sent to Mr. Lacayo, and soon after Lacayo and the gentlemen came up to the council chamber, and many questions were put to him touching the reported bombardment, his position as commissioner, etc. He replied in the affirmative or negative, as he deemed prudent—assured the chief that it was only on account of the Honduraneans that he had sent for the troops, so as to protect the inhabitants.

The chief, the commissioner, and members of the council then spoke over the future—the planting of coffee, cocoa, etc., in the reserve, and the benefits they would prove to the country. On leaving he asked for a copy of the questions. A copy was given at his request. He was not displeased, and the gentlemen went back with him to his residence. Later on in the day more reports sprung up and the people were excited. Some time after Lacayo sent a very insulting note to

the chief. We then tried to quiet the fears of the people by giving them the best advice and assurances. They got somewhat assured with the hope that all would be well. Still, by what the chief had received and the threats which were told to some reliable persons who felt that evil was intended, we, too, felt alarmed. However, we could not show our anxieties, as we (I mean members of the council) were aware that the people were watching us, and that the least show of excitement on our part may cause trouble. The troops, 160 men, were landed on the night of Friday, the 10th, shouting as they went along the streets, "Vive Nicaragua!"

On Saturday a delegation of Americans waited on the chief, warning him of the impending danger, stating that Lacayo is premeditating acts of violence, and if active measures were not taken that the inhabitants would suffer. We saw the truth in what our American friends asserted, as we ourselves were well informed, but we had concluded beforehand that the only safe and right step would be to keep the people quiet, come what may. All that we could gather was that in case of resistance there should be a general slaughter of natives and foreigners and the burning of the town. Seeing that we were placed in such a critical position, and that the women and children could not escape, and as we had so many strange women and children, as well as native women and children, within the town, we fully concluded that the great object was to save life, and to suffer insult rather than see one woman or one child murdered by the hands of so base a bandit and their more depraved leaders. We then used our best influence over the minds of the people, as we could perceive that the great object was to force them to rebellion, so that they (the Spaniards) may with force and cruelty exterminate the inhabitants, that they may occupy and plunder. On the night of Sunday, near the morning of Monday, the first attack was made. The inhabitants of the town were hushed in sleep when the premeditated crime was committed, and the last spark of manhood had left Lacayo. It was an inhuman crime committed by the commissioner when at midnight he turned out an armed force and compelled a quiet, peaceable, and defenseless people to surrender just rights—the very soldiers that Lacayo said were brought to protect lives and property, "as he was, or his Government was, responsible to other nations for the lives of their people."

These were the very unwashed and irresponsible men that were led against the town, and at midnight took the property of the people of the municipal government. These were the soldiers who were offered as bounty (should resistance be made by the inhabitants) to burn and sack the city of Bluefields. Early on Monday morning the people were here and there gathered, looking on in sadness, and these soldiers were pushing them off with the point of the bayonet, forcing them to resist so that they may accuse the peaceable people of rebellion; but we have much cause to thank Almighty God that the people took the advice given, and all natives and foreigners kept their hands from shedding human blood. For it was quite clear that if the first shot was fired, natives and foreigners would have made common cause to protect their wives and children. A large body of Spanish troops again arrived from Rama; this gave more cause to the soldiers to grow bold and insolent, and the captain of the band, Cabezaz, tried his utmost to stir the people to revolt by surrounding the flagstaff of the Mosquito Government, and hoisting the Nicaraguan flag. Without necessity, and without authority, without any cause to suppress rebellion, but to gratify malice, and by tyranny and caprice, the commissioner, Carlos A. Lacayo,



and his accessory, Cabezas, exercised over the peaceable and defenceless inhabitants of Bluefields a lawless violence by proclaiming martial law, and kept up day by day without necessity, so as to carry out and to coerce the Mosquito Government, and to serve their own malicious ends.

This state of things was imposed on the people with all its terrors of the situation and made the more terrible by the insults of the half-clad and half-civilized soldiers who were anxious for a riot so that they might have an opportunity to plunder. During this time of unnecessary martial law the civil law was violated. A soldier, said to be a Colombian, was, on a simple cause of offense, flogged cruelly, and died within thirty-six hours from the effects of the flogging and other cruelties. The wife of the British vice-consul was insulted; young girls who were on their way to school were insulted; Mr. J. P. Moody was insulted, assaulted, and plundered; the chief, Robert Henry Clarence, was twice attempted to be assassinated; Mr. G. S. Hodgson was arrested; Mr. S. A. Hodgson was arrested; H. U. Hodgson's life was sought, his house entered and robbed; an attempt was made on the person of J. W. Cuthbert. The taking possession and appropriating the guns of the police; bursting open the prison doors and letting loose on the community felons and other prisoners; staying the proceedings of the supreme court while in sitting; letting loose certain prisoners who were just sentenced, they being Nicaraguans, and the crimes being against American citizens; the taking charge of the Mosquito revenue and collecting and appropriating the same to their own use; the giving to the families of the reservation unnecessary sleepless nights and anxious days; the unnecessary causing, through fear, hundreds of women and children to sleep in the bushes without shelter, exposing infants and mothers to damp, dew, rain, and mud; causing some mothers to be sick, children to be sick, and some infants have sickened and died; the employing men during martial law to enter at midnight the homes of an already distressed and uneasy people with guns, bayonets, bowie knives, and revolvers, and, under the pretense of searching for arms with the point of the bayonet, strive to ravish the women, and discharging their guns and revolvers at the men in their very homes and wounding; and numberless other outrages and petty larcenies committed by the soldiers on the persons of private individuals under the plea of searching for arms—these were acts of Lacayo and Cabezas, and these were the soldiers they brought to protect the inhabitants from Honduran invaders. All this was done, and more sufferings were endured than can be here expressed against the inhabitants unmercifully by the malicious and cruel men.

While all this was going on, natives and foreigners were leaving the country by every available opportunity—some in such small vessels and in such numbers that should any accident happen, and having no boats to save life, all must have perished.

The situation day by day grew more alarming; persons who did not leave became very anxious for their families, as no one could tell what the next moment would bring forth. The fears, anxieties, wailings, and pleadings of wives to their husbands caused men—fathers and husbands—to think, and many sleepless nights were spent in watching over the safety of our homes and families. Yet we hoped, and hoped in God for help. We expected war ships, American and English. The American ship was sent for first by Americans, and, being near, all here, natives and foreigners, looked with anxious hearts, but no ship. The British vice-consul and British subjects had appealed for help, but this



being later on, we could scarcely expect an early arrival; yet we did expect, as is the case with all anxious hearts. The British vice-consul, Mr. Hatch, and Consul Bingham seem to have worked nobly and energetically and humanely. While anxiously waiting to see the American ship, as we had seen by the papers that she was ordered down to these waters, you may very well picture the dismay of all suffering hearts when the news reached us that the good old *Kearsarge* was wrecked on the Roncador. The Americans were much troubled, as many were feeling more and more the dishonorable actions of the Spaniards, and the situation was growing worse. At the loss of this ship the Spaniards grew bolder, while numbers of the inhabitants became more distressed; all believed that, irrespective of nationality, there would be shown to a suffering and peaceable people humanity.

All British subjects felt confident that the thing could not last long, and we cheered and comforted one and the other, knowing that Consul Bingham was always prompt, and that our noble Government would not, and never did, allow undue means to be exercised over her loyal and loving subjects longer than it could be helped. It was Sunday morning we saw the work of righteousness. Early in the morning of Sunday, the 25th of February, reports reached this town that a war ship was lying outside the bluff. All hearts felt joy, and you may fancy the shout that went up to heaven when the brave captain jumped from his cutter and landed safely in this town, leaving his boat with the British ensign gently floating in the wind at the stern of the cutter. Captain Howe walked up to the British vice-consul and, after a short interview with Vice-Consul Hatch, the captain left for the residence of the commissioner.

On his way back he was invited by the Americans at the American Club. After a short stay the captain left the club, and on the way back he heard a great noise; women and children were screaming, and the Nicaraguan soldiers and officers howling. This was brought about by the landing of the captain. A great many persons (for joy), men, women, and children were walking along in the rear of the two English officers. This annoyed the Nicaraguans, and seventy or eighty armed men were ordered to charge on them, and with loaded guns and fixed bayonets the soldiers charged the people while the officers flourished their loaded revolvers and whooped and yelled, "Vive Nicaragua! Vive Lacayo! Vive Castin!" Then the soldiers joined in, each trying to bawl louder than the other, shouting "Vive Nicaragua! Vive Lacayo!" pressing the bayonet on the bodies of the people while the officers brought their revolvers near to the heads and faces of the men. All this was done in the presence of the captain, who quietly remarked, "I see I am not an hour too soon." The first work of Captain Howe was to relieve the situation and to restore confidence by immediately having martial law to be taken off. This was just and right to all the citizens of the reservation, foreigners and natives, as there was no necessity, Lacayo, Cabezas, the soldiers and officers having revolted against the chief of the Mosquito Reservation and against "The municipal authority for the government of the Mosquito Reservation." It was Lacayo and Cabezas who rebelled, and the undue means used by them against the people of Bluefields in proclaiming martial law was an abuse of the power of the Commissioner Lacayo, who, to gratify malice, committed an act or acts of tyranny.

The names of Capt. A. G. C. Howe and Lieutenant Colmore will long be remembered by natives, Indians, Americans, and British subjects, who were eyewitnesses and sufferers together.

These kind and noble-hearted gentlemen worked hard, and that night and day, to restore order and confidence to every home and homestead, irrespective of nationality. Every precaution was used to protect life and property, and, although every order was carried out with boldness and firmness, yet all were tempered with the greatest kindness. Ladies and children soon felt it was good to indulge in the open air, and again we commenced to see the smiles of our women and children. Fruit and flowers were lavished on the British blue-jackets in token of gratitude, and men, women, and children—natives, Americans, and British subjects—felt sorry when the gallant captain and his beloved lieutenant and the men of the *Cleopatra* left the shores of Bluefields and waved their last good-bye.

At present things seem quiet, but we know that there is a strong undercurrent, and should the war ships leave us, and leave us in the hands of Lacayo and all the unprincipled men who planned the revolt and the capture of Bluefields, it is beyond a doubt that as soon as such withdrawal is made the lives and property of the inhabitants will be sacrificed.

I would ask you to view the case in all its particulars. The Nicaraguans have no sympathy for the inhabitants of the Mosquito Reserve. They are jealous of the prosperity of the reserve. We do not speak the same language, we do not profess the same religion, and our institutions and laws and manners and customs are not agreeable to them, and their manner of life and mode of government are obnoxious to us; and both Indians and foreigners within the Mosquito Reservation are unwilling that these men shall have the rule over us. The acts of Lacayo as commissioner to the reserve show plainly that there is no honor, no truth, nor confidence in the Spanish element, and if left alone our lives and the lives of our families and our hard-earned properties will not be sacred in their hands.

I have the honor to be, your most obedient servant,

JOHN O. THOMAS.

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[Inclosure 2.]

*Mr. Ingram and others to Mr. Baker.*

BLUEFIELDS, April 28, 1894.

SIR: The right of Mosquito to dispose of her public lands by lease is indisputable, Mosquito having been a Kingdom long before the treaty of Managua and under no other sovereignty; and Nicaragua in the said treaty of Managua of January, 1860, has recognized said right.

On the strength of said treaty, the executive council on October 24, 1863, according to the Mosquito Code (p. 21, secs. 1 to 4), enacted laws for the disposition of public lands as follows:

AN ACT entitled "An act regulating the occupation and use of the public lands of the Mosquito Reservation and to regulate and dispose of the natural production thereof."

COUNCIL CHAMBER, Bluefields, Oct. 24, 1863.

SEC. 1. *Be it enacted by the executive council in session assembled,* That a public land office be established, and that from the first day of November, 1863, a land commission of three persons shall be appointed to take charge of the public lands and the disposition of the natural productions thereof.

SEC. 2. Their power and duties shall be as follows, viz: They shall have the right to let and lease the public lands and to regulate the sale and disposition of its natural productions, and for the benefit of the Mosquito Reservation under the seal of



the Government on such terms as they, the commissioners, shall deem most advantageous to the interests of the Mosquito Reservation.

SEC. 3. That said commissioners shall keep a record book, in which every act and thing done by them shall be recorded, and said record book shall each and every year hereafter be presented to the executive council at its regular session.

SEC. 4. That said land commissioners shall be appointed every year by the executive council in session assembled.

The council thereupon proceeded to elect commissioners for the year 1864, and did then and there appoint three commissioners. The commissioners were instructed by the council that all persons applying for the occupation and use of the public lands and the productions thereof shall each and every of them take an oath of obedience to the constitution, laws, and regulations of the Mosquito Reservation.

FORM OF OATH.

I, the undersigned, do declare on oath that I will faithfully fulfill the duties of a citizen resident of the Mosquito Reservation, and so long as I may reside within its limits submit to, abide by, and obey the constitution, laws, and regulations of the municipal authority of the Mosquito Reservation. So help me God.

The council further instructed the commissioners that all leases or permits granted in regard to the public lands or its natural productions shall be of one form, and that leases or permits shall contain the names of the commissioners and the names of the person or persons applying, shall have a consideration named, and a specified time fixed for carrying into effect its conditions.

HENRY PATTERSON,  
*Vice-President.*  
J. H. HOOKER,  
*Secretary.*

In conformity with the above law, all leases have been granted for a term of fifty years, with the privilege of renewal at the expiration thereof for fifty years more.

The validity of the leases, so far as Nicaragua is concerned, has been acknowledged by her former commissioner, Gen. Ysidro Urtecho, who applied for, and obtained by lease, the premises now occupied by the present commissioner, and never objected to any leases made by the Mosquito Government.

No restrictions can be placed by Nicaragua regarding the disposition of public lands in the reserve as long as they are not ceding it to any foreign person or state. The Managua treaty, Article II, states as follows:

But the district thus assigned to the Mosquito Indians may not be ceded by them to any foreign person or state, but shall be and remain under the sovereignty of the Republic of Nicaragua.

The relative position of Mosquito to Nicaragua is that of a coexisting sovereignty, as demonstrated by the flag of Mosquito, and which has been clearly set forth in the treaty of Managua, Article III, and the award of His Imperial Majesty the Emperor of Austria, in his arbitration of certain questions relative to the affairs of Mosquito.

The decision of the Emperor has been accepted by Nicaragua but never acted upon fully, and the present occupation of the Mosquito Reserve by the Nicaraguan commissioner and his employees demonstrates the fact that the solemn engagements of that Republic can be willfully violated by them at pleasure.

To-day Mosquito is regarded either as the prey or the enemy of Nicaragua, by said Government, and it is only the presence of either British or American war ships that guarantees protection of our lives.

We are confident that the British Government will insist on the fulfillment of the above quoted treaty stipulations.

Although having heard to the contrary from those interested in our downfall, we are confident that the United States of America, for the



sake of liberty, as well as for the interests of her citizens residing and doing business in this country, will use every means in her power to assist in bringing this matter of ours to a satisfactory termination.

H. C. INGRAM.

S. A. HODGSON.

GEORGE S. HODGSON.

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[Inclosure 3.]

*Officers of Moravian Mission to Mr. Baker.*

BLUEFIELDS, April 30, 1894.

SIR: We, the undersigned, being called upon to give our personal opinion with regard to the present state of affairs in the Mosquito Reservation, and with regard to the future prospects of the same, beg leave to state that we do so somewhat reluctantly, as our missionary calling forbids us to have any dealings with politics.

The Evangelical Church of the United Brethren, commonly called the "Moravian Church," has carried on mission work in this country for these forty-five years. The Moravian Mission on this coast comprises at present 13 congregations, numbering 5,500 souls—75 per cent Indians, 25 per cent colored people—whilst 700 children are being taught in 15 schools, 14 of which are elementary schools, one a higher school for advanced pupils.

This work is carried on by 15 ordained missionaries (12 of whom are Europeans, 3 colored), 2 lay missionaries, and 7 teachers, at an annual cost of \$14,000, one-half of which is raised here.

With regard to this work we beg to state that if Great Britain, under whose protection our work was inaugurated, does not uphold the treaty of Managua, we should feel very unsafe indeed, as in our opinion the Anglo-Saxon language, religion, Sunday observance, enterprise, and commerce would be crushed out before long, and become a thing of the past.

The number of our church members would also be very seriously affected by such a change of government, there being but one voice among the colored population, to the effect that they would not be able to live under Nicaraguan rule, and therefore would rather emigrate—a considerable number having already taken steps in this direction.

The Indians are of the same opinion concerning a Nicaraguan rule, but as they are of a more phlegmatic disposition they would probably not emigrate. It is our opinion that they would have to expect very little encouragement and receive very little benefit from the hands of a Nicaraguan government; moreover, that such a change would result in hastening the extermination of the Indian race, while at the present time the Indians have been on the way to improvement.

Submitting this, our humble personal opinion, to your judgment,

We remain, most honorable sir, yours, very respectfully,

W. SIFBORGER,

*Superintendent.*

H. BERKENHAGEN,

*Warden of the Moravian Mission on the Mosquito Coast.*

*Mr. Baker to Mr. Gresham.*

UNITED STATES LEGATION,  
BLUEFIELDS, MOSQUITO RESERVATION,  
*Nicaragua, May 10, 1894. (Received May 21.)*

SIR: In a protracted conversation, lasting from 2.15 to 5 o'clock, on Saturday, May 5, with Mr. José Madriz, Nicaraguan minister of foreign affairs and special commissioner to this reserve, the following historical facts were agreed upon:

Gen. Carlos A. Lacayo was commissioned by the President of Nicaragua in November, 1893, as commissioner to the Mosquito Reservation, as provided in the treaty of Managua of 1860. His instructions were to assert Nicaragua's sovereignty over this territory, and to take such steps as would finally bring about a complete incorporation of the reserve into Nicaragua and the extension of her laws and language over it. He was instructed to bring this about, if possible, by diplomatic methods.

General Lacayo was accompanied by a military official, General Cabezas, who was designated as "inspector-general of the coast," an office not known to the Mosquito Government nor provided for by the treaty of Managua.

On the arrival of General Lacayo at Bluefields, he recognized the Mosquito Government then existing, with its chief, its executive council of seventeen, its council of thirty-six headmen (all Indians), and all its public officials.

General Lacayo set on foot negotiations with these officials for their abdication and the turning over of the local government to him. He tendered to the chief, Robert Henry Clarence, a commission as brigadier-general in the Nicaraguan army, with a pledge that his salary as such military officer should be the same as his present salary as chief of this nation, and that it should continue for life. He offered to pension the attorney-general, Mr. J. W. Cuthbert, and the vice-president, Mr. C. Patterson, besides agreeing to secure to them good titles and the unmolested possession of all the lands and property which they owned. He also opened negotiations of a similar character with individual headmen, with a view of gaining their adhesion to the cause of Nicaragua, but, Mr. Madriz acknowledged, with no success.

For a space of between two and three months, while these negotiations were going on, General Lacayo recognized the official authority of Chief Clarence, his executive council, and the officers of the Mosquito Government.

General Lacayo, having failed in his diplomatic efforts to get possession of this reserve, concluded to charge this failure up to the American business men of this territory. He charged the Americans with being inimical to the interests of Nicaragua, in that they have caused the Indians to withhold their consent to the extension of Nicaraguan rule over the reserve.

(I will remark, by way of parenthesis, that I have found no evidence that Americans have tampered with or attempted to influence the Indian headmen in the premises. I find the fact to be that the sentiment of the residents—Indians, creoles, negroes, and Americans—is unanimous in opposition to the extension of Spanish rule over this territory. No headman, no executive councilman, no chief, would entertain an idea of voting to amalgamate with the Spaniards in the sense of permitting them to extend their military rule over their people.)



General Lacayo, having failed in his diplomatic efforts, communicated with the President at Managua, and recommended that troops in goodly numbers be placed at the disposal of General Cabezas and himself, on the claim that the chief and his council were disloyal to the sovereign Government of Nicaragua. The call was responded to, and troops were sent. This city (Bluefields) was occupied by an armed force; the executive council was dispersed; the public offices were occupied by armed soldiers; the archives, books, records, and papers of the Mosquito Government were taken violent possession of and removed to General Lacayo's military headquarters, and the prison doors were thrown open, and all criminals were set at liberty. Martial law was proclaimed by General Cabezas throughout the reserve, and the territory declared to be in a state of siege. Military governors, with extraordinary powers, were placed over every town and hamlet; new taxes were imposed; new regulations of commerce and trade were established. Government was by "decree," and not by legislative enactment. While General Lacayo was laboring under the impression that his failure to induce the members of the Mosquito Government to abdicate their official positions in favor of Nicaragua was chargeable to the negative influence of Americans, he inconsiderately, as Mr. Madriz admitted, recommended the President to withdraw Consul Braida's exequatur.

In discussing the murder of William Wilson, an American citizen, by Noberto Argüello, the military governor of Rama, Mr. Madriz, expressed his deep regret that such a thing should have happened at that particular time, especially as it gave rise to much ugly talk as to threats made by Spaniards against the lives and property of Americans. In this connection, Mr. Madriz admitted that Argüello's successor as military governor of Rama, Francisco Torres, had not obeyed his most definite instructions to keep his prisoner closely confined in prison—that Torres had permitted him to go at large, thus treating his orders with contempt. Therefore, Mr. Madriz assured me, he had suspended Torres from office, and had appointed in his stead a Dr. Barberena, a young physician who was educated in Philadelphia, who had traveled some and talks English well. Torres, although appointed to govern an English-speaking town, could speak no English.

In many conversations with Mr. Madriz I have represented to him the condition of unrest and nervousness created and continued by the almost constant parading on the streets of armed soldiers, and the sound at many hours during the day and night of the bugle and the drum. I earnestly protested against the necessity of armed soldiers in Bluefields.

I stated to him the devotion of the people of the United States to the principles of civil rule, the superiority of the civil authorities over the military; and I stated to him the repugnance our people felt toward being governed by the bayonet, by military satraps, by "decrees" of petty and usually ignorant "governors" who were imported from another section of country, were of another race, and spoke to them in a strange language. Mr. Madriz acknowledged the force of my remarks, and on the occasion of this last conversation promised to remove, on the following Monday, May 7, all of the soldiers from Bluefields, sending about 250 of them up the river and to the interior, and the remaining 50 to the "bluff," which commands the approach to the town. This has been done. Our military governor, a "general" in the Nicaraguan army, is still with us. Personally, this governor is a clever man, a Hollander,



and speaks English; but "governors" of towns are changed with much frequency.

On Monday, May 7, I went to Pearl Lagoon, to which place Chief Clarence and his two most intimate advisers, Messrs. Cuthbert and Patterson, retired after the assault on Bluefields on the night of February 11. I spent several hours in conversation with the three men named; I related to them the historical facts agreed upon by Mr. Madriz in his conversation with me on the 5th instant, and these men corroborated the same facts, adding many others which will be made the subject of another communication.

All three of these men were alarmed for the personal safety of Chief Clarence, and each gave some evidence to justify his fears. On report of this portion of our interview to Capt. A. C. Clarke, commander of H. B. M. S. *Magicienne*, now lying off Bluefields, he came to see me yesterday.

The result of the conference was his conclusion to go to Pearl Lagoon, invite the chief to come down with him to Bluefields, where he would place the former under the protection of General Lacayo and would hold the latter responsible for his safety. In pursuance of this conclusion Captain Clarke has gone with his ship to Pearl Lagoon for the purpose of bringing the chief down. It will be borne in mind that the father of the present chief, while serving in the same capacity, was poisoned, and that a Nicaraguan Spaniard was convicted and executed for the commission of the crime. That event occurred at the time of a somewhat similar effort of Nicaragua to capture and appropriate this reserve.

Referring again to my conversation with Minister Madriz, he stated to me in the most unequivocal and positive terms that Norberto Argüello, the murderer of Wilson, would be kept in close confinement in this town until the time arrived for his trial. Then he would be given a fair trial, and if found guilty of the crime charged would certainly be punished according to law.

On Saturday, the 5th instant, at the very hour Mr. Madriz and I were in conference, General Lacayo was at the prison engaged in taking what he was pleased to term Argüello's "ante-mortem statement." In this "statement" Argüello claimed that in the murder of Wilson he acted in self-defense.

Mr. Madriz left Bluefields on the evening of the 7th instant for Managua, and on the afternoon of the 9th the doors of the prison were left open and Argüello deliberately walked out in the full sunlight. The woman with whom he had been cohabiting before and since the murder had been with him at the prison the most of the day, and he was apparently in her charge. At the time he left the prison she was not with him, having gone before to arrange for his safety should an effort be made by Americans to recapture him. While the American citizens were highly and justly indignant, I believe no effort, either by the authorities or by volunteers, was made to bring him back. Americans naturally argued that any imprisonment or trial by the Nicaraguan authorities would be a farce, judging by the whole conduct of the officials since the night of the murder.

My conclusions, drawn from an industrious and patient investigation, occupying more than two weeks, of the facts connected with the overthrow of the Mosquito Government and of the sentiments of the people of this reserve, are:

(1) The present provisional Government imposed upon this people by the Nicaraguan authorities, in copartnership with Her Britannic

Majesty's consul, H. F. Bingham, is 'a bold usurpation, and does not rest upon the consent of 1 per cent of the people governed by it.

(2) The old Mosquito Government, which existed long before Nicaragua had an existence as an independent State, and which continued to exist up to the night of the 11th of February last, was overthrown by armed violence.

(3) That fully 90 per cent (and probably this figure should be made 95) of all the wealth, the enterprise, and the commerce of this reserve is American. The trade is wholly with the United States, almost all the commerce is carried by American ships, and the business is transacted by Americans. Neither the English nor the citizens of any other nation have any important business interests within the reserve.

(4) The extension of the Spanish revolutionary rule over this reserve will inevitably crush out and drive from these lands the whole of this present business prosperity, and this contented and industrious population will go with it.

I am, etc.,

LEWIS BAKER.

*Mr. Gresham to Mr. Baker.*

DEPARTMENT OF STATE,  
Washington, May 12, 1894.

SIR: I have received your report in regard to the situation at Bluefields of May 2.

The matter is under careful consideration, and in due time you will be fully instructed. Meanwhile you should take care to say nothing tending to disparage Nicaragua's rightful claim to paramount sovereignty or to encourage pretensions to autonomous rights inconsistent therewith.

I am, sir, etc.,

W. Q. GRESHAM.

*Mr. Bayard to Mr. Gresham.*

[Telegram.]

LONDON, May 22, 1894.

Had an interview with Lord Kimberley to-day, who stated no intention or desire of Great Britain to exercise protectorate in any form over any portion of Nicaraguan territory, but to act thoroughly in concert with the United States for maintaining safety of the citizens and property of both countries, continuing our treaty of 1850 in unbroken force and effect. British consul acted without instructions in making provisional agreement in March, under apprehended danger to life and property. British Government anxious for consultation with the Government of the United States to guard against apprehended Nicaraguan violence to American and British interests. British ambassador at Washington instructed to that effect.



*Mr. Bayard to Mr. Gresham.*

EMBASSY OF THE UNITED STATES,  
*London, May 28, 1894. (Received June 7.)*

SIR: On the 9th instant I had the honor to receive your instruction, dated April 30, in relation to the incident at Bluefields, transmitting the report of Captain Watson, commanding U. S. S. *San Francisco*, to the Secretary of the Navy, dated April 16, and accompanied by copies of sundry proclamations and documents issued at Bluefields variously during the period covered by the report.

With the foregoing papers I also beg to acknowledge the précis of the documentary history of the events at Bluefields, now under consideration, which had been prepared at the State Department, and styled "Mosquito Territory, course of events, 1894."

\* \* \* \* \*

When Lord Kimberley returned to London on Tuesday, the 22d instant, he promptly accorded me an interview, which was one of frank and friendly interchange of views in relation to the Bluefields incident, and the position occupied by Her Majesty's Government in relation to Nicaragua and the Mosquito Reservation.

On leaving the foreign office I telegraphed you the purport of all that he said, and of that telegram I have now the honor to inclose herewith a deciphered copy.

Lord Kimberley gave me clearly to understand that Great Britain was contemplating no extension of her influence in Nicaraguan territory nor any violation whatever of the Clayton-Bulwer treaty of 1850, which his Government continues to recognize as extant and in full force.

I pointed out to him the changes wrought by the lapse of time and progress of immigration into Bluefields and Nicaragua since that treaty was made, under which a new population had gathered there, composed of Americans, English, Germans, Jamaica negroes, and others who, and whose property interests, were not in existence in January, 1860, when the treaty of Managua between Great Britain and Nicaragua was framed, under which the sovereignty of Nicaragua over the reservation of the Mosquito Indians was fully and distinctly stipulated, with certain qualifications; but the renunciation of any protectorate by Great Britain over the Mosquito Indians and their territory was clear, distinct, and unquestionable.

I did not consider it opportune to refer to the very questionable propriety or right of submitting the treaty of Managua, of January, 1860—an instrument dealing wholly with Central American jurisdiction and interests, which were also manifestly within the purview and scope of the anterior Clayton-Bulwer treaty—to the arbitration of a European power (Austria) without notice to the United States, or inviting that power to come into the consultation respecting interests which were the subject-matter of existing treaty stipulations between Great Britain and the United States; and not being a party to any such arbitration, the United States were in no way bound to the award.

I preferred, upon the broad but well-defined provisions of the Clayton-Bulwer treaty, to treat all British protectorates in Central America as long since at an end, and never to be renewed in any shape, form, or degree.

I also drew his lordship's attention to the fact that, in the history of this last incident of disorder at Bluefields, which led to the landing of an armed British force, no question as to the right of the Mosquito



Indians being governed by their own customs and regulations, as established in their reservation, seemed to have arisen; and yet it was to such "customs and regulations" alone that any shadowy remnant of a guaranty on the part of Great Britain could possibly be argued or suggested.

And such a guaranty, or right of its enforcement, was not admitted by the United States, but, on the contrary, was held by them to be inconsistent and at variance with the engagements of Great Britain under the Clayton-Bulwer treaty.

The assumption of the British consul to become a signatory to a protocol or provisional agreement of a political and commercial nature between the Mosquito territory and Nicaragua was a cause of surprise to the United States and apparently inconsistent with our conventional understanding (1850) with Great Britain.

To this his lordship replied that the British consul had acted without instructions, and that it was to be assumed that nothing but instant peril to the life and property of English and other residents induced him, as a kind of *modus vivendi*, to tide over a crisis, and by some method peaceably to allay disorders and procure some settlement.

His lordship further expressed a strong desire to learn what the United States Government considered it advisable should be done in the present status of affairs at Bluefields.

He said the United States are, as it were, "on the spot," and could judge what line of action was necessary to produce requisite and reasonable security for persons and property in that region.

He appeared to be disposed to follow in the line which should be approved and adopted by the United States, so that a coincidence of view and action should be arrived at by the United States and Great Britain.

Our conversation was wholly verbal, with occasional references to the treaty of Managua, and some telegrams on the subject.

I believe I may fairly say that, in this conversation, Lord Kimberley desired me to understand that the interposition and interference by British officials, civil or naval, in the Bluefields incident—whatever it may have been—was merely to keep the peace in a semicivilized region, where law was displaced and disregarded, and for the purpose of securing order and safety to the lives of peaceable residents of British and also of other nationalities, who all joined in asking for protection from violence in the shape of truculent and undisciplined troops claiming authority from Nicaragua.

His lordship incidentally mentioned (as I had previously done) the interest felt in the United States on the subject of the proposed inter-oceanic canal, and recognized, with apparent approval, the increased interest naturally felt in the region of the contemplated work, owing to the large investments of capital, present and prospective, and said the condition of affairs was no doubt much better understood in the United States than in Great Britain, and that his Government was desirous of knowing the opinion to which the former Government might come in order that Great Britain might be better prepared to act in line with them.

The interview was frank and full on both sides, and we agreed that in the present status such mode of treatment of the matter was the most expedient.

There is no doubt in my mind that Great Britain has no desire to have the Clayton-Bulwer treaty abrogated, nor to do anything incon-

sistent with its provisions, nor to extend their influence in any way in the region of country or transactions to which that instrument has relation, nor to interfere in any way with the plans or works of the United States in relation to the projected canal. They do not desire to have any but the most friendly and mutually accommodating relations with the United States, so that I believe we shall find this Government prepared to lend a ready ear and to entertain in an accommodating spirit any proposals which it may be the desire of the United States to present for their consideration. Indeed, Lord Kimberley told me the British ambassador in Washington had been instructed in this sense.

I have, etc.,

T. F. BAYARD.

*Mr. Baker to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
Managua, May 30, 1894. (Received June 12.)

SIR: I have just received from Mr. Charles Lobner, a reliable resident of Bluefields, a letter, of which I herewith inclose a copy. On the 5th of May, some days before I left Bluefields, I secured from the Nicaraguan special commissioner to the reserve, José Madriz, an agreement that all Nicaraguan soldiers should be removed from Bluefields, and that not more than fifty should be quartered at the bluff. This agreement was promptly carried out on the 7th of the month. I left Bluefields on the night of the 11th. Between those dates there were no soldiers in the town.

From the inclosed letter it seems that as soon as I left the soldiers were taken back to Bluefields by Lacayo, in utter contempt of the agreement of his superior officer.

\* \* \* \* \*

I shall immediately call the attention of Mr. Madriz and the President to this breach of faith.

I have, etc.,

LEWIS BAKER.

[Inclosure.]

*Mr. Lobner to Mr. Baker.*

BLUEFIELDS, May 12, 1894.

DEAR SIR: I take the liberty of informing you that on the evening of your departure from here the bugle at the "Castle Lacayo" sounded as usual at 8 p. m.; also this morning at 4 and 8. I suppose it will continue. Soldiers are again plenty in the town. One of them was caught stealing a shirt and hat from the N. O. and C. A. Trading Company's store, was marched up to Lacayo's by the bookkeeper, and Lacayo promised to give him 400 lashes, which will probably kill him.

Respectfully,

CHARLES LOBNER.

*Mr. Baker to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
*Managua, June 4, 1894.* (Received July 3.)

SIR: I have just received a cable message from Capt. J. C. Watson, commander of the U. S. S. *San Francisco*, at Colon, a copy of which is found on another page of this dispatch. I also herewith confirm the sending of the reply found attached to the above.

I am still in the dark as to the Department instructions referred to, and must necessarily remain so for some days. The instructions of the 24th of May will be due here on the 16th of June. After their receipt I will have no means of reaching Captain Watson.

I have, etc.,

• LEWIS BAKER.

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[Inclosure 1.—Telegram.]

*Captain Watson to Mr. Baker.*

COLON, 8.15 P. M., *May 3, 1894.*  
 MANAGUA, 10 P. M., *May 3, 1894.*

Have copies instructions sent you, dated May 12 and 24, concerning demands in Argüello case. Ready to assist with all my force. *New York* goes home on our return Bluefields unless emergency forbids. Cable me situation.

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[Inclosure 2.—Telegram.]

*Mr. Baker to Captain Watson.*

MANAGUA, *June 4, 1894.*

Have not yet received instructions referred to. Latest mail left New York May 10. Argüello still at liberty. Lacayo still in power, although President has personally promised his removal. Torres removed. Advise me.

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*Mr. Baker to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
*Managua, June 7, 1894.* (Received July 3.)

SIR: In responding to yours dated May 12, cautioning me to "take care to say nothing tending to disparage Nicaragua's rightful claim to paramount sovereignty or to encourage pretensions to autonomous rights inconsistent therewith," I will say that I have on all proper occasions affirmed Nicaragua's rightful claim to paramount sovereignty over the Mosquito territory; but, while conceding this, I have expressed the hope that the American citizens who have gone to that territory and invested money and labor and procured titles to property under certain treaty stipulations will be protected in the rights that they have acquired by proper arrangement between the two Governments.

I have, etc.,

LEWIS BAKER.



*Mr. Baker to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
*Managua, June 9, 1894. (Received July 3.)*

SIR: Referring to my dispatch of May 30, with a letter from an American citizen of Bluefields, Mr. Charles Lobner, as an inclosure, I beg to invite your attention to the inclosed communication.

Inclosure No. 1 is a copy of my note to Hon. José Madriz, minister for foreign affairs, and special commissioner to the Mosquito Reservation, calling his attention to this breach of good faith and act of disobedience on the part of Commissioner Lacayo in returning the Nicaraguan troops to Bluefields.

Inclosure No. 2 is a copy of Mr. Madriz's reply, promising to investigate the affair.

I have, etc.,

LEWIS BAKER.

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[Inclosure 1.]

*Mr. Baker to Mr. Madriz.*

LEGATION OF THE UNITED STATES,  
*Managua, May 28, 1894.*

MR. MINISTER: I have the honor to call your attention to the inclosed communication, the original of which I have on file at this legation. This letter goes to show that your agreement personally made with me on the 5th of May, at Bluefields, by which you ordered all the armed soldiers, with their disturbing bugles and drums, from that town to the bluff, was not observed many hours after I left there.

This seems to me an exhibition of bad faith and a contempt on the part of Commissioner Lacayo of the agreements and orders of his superior officer, which can not well be overlooked.

With high esteem, etc.,

LEWIS BAKER.

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[Inclosure 2.—Translation.]

*Mr. Madriz to Mr. Baker.*

NATIONAL PALACE,  
*Managua, June 2, 1894.*

MR. MINISTER: I have had the honor to receive your communication of the 28th ultimo, calling my attention to a letter from an American resident of Bluefields, addressed to your legation, referring to the arrival of armed troops and the continuation of military routine in that city, contrary to the orders of removal given by me in my capacity of commissioner of the supreme Government.

You say that this is in violation of the personal agreement entered into between us on May 5 last, and condemn Mr. Lacayo's proceeding as an act of bad faith.

Undoubtedly it is if Mr. Lacayo, with a foreknowledge of my instructions, has again brought soldiers to Bluefields, and by so doing he has disobeyed my orders and will have to answer to the Government for his acts. To that end explicit information concerning this incident has been asked by the Government.

With the greatest respect, etc.,

JOSÉ MADRIZ.

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<sup>1</sup> See inclosure in Mr. Gresham to Mr. Baker, page 307.

*Mr. Gresham to Mr. Baker.*

DEPARTMENT OF STATE,  
Washington, June 13, 1894.

SIR: I have received yours of the 30th ultimo, communicating copy of a letter addressed to you under date of the 12th, by Mr. Charles Lobner, of Bluefields, in which it is stated that the day after your departure, on the 11th, soldiers were "again plenty" in the town. This you characterize as in contempt of an agreement made by you with the Nicaraguan special commissioner to the reserve, Señor José Madriz, that all Nicaraguan soldiers should be removed from Bluefields, and that not more than fifty should be quartered at the bluff.

The President is unable to sanction any intervention by you, restrictive of the sovereign authority of Nicaragua over the territory occupied by the Mosquito Indians. Recognizing, as this Government does, the paramount rights of the Republic in that region, it ill becomes the representative of the United States to interfere to restrain the Nicaraguan Government in the exercise of those sovereign rights.

Your proper function is limited to the protection of American citizens in the reserve, as in any other part of Nicaraguan territory.

You, will, before now, have received, if indeed you had not already received at the time of writing your dispatch of May 30, my instructions of May 12th enjoining you to refrain from doing or saying anything tending to disparage Nicaragua's paramount sovereignty, or to encourage pretensions to rights inconsistent therewith.

I am, etc.,

W. Q. GRESHAM.

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*Mr. Guzman to Mr. Gresham.*

[Translation.]

LEGATION OF THE REPUBLIC OF NICARAGUA,  
Washington, July 5, 1894.

SIR: In pursuance of the promise which I made to your excellency in our conversation of this morning, I have the honor herewith to transmit to you a copy of the communication which I have received from my Government and of the inclosures to said communication.

According to our agreement, I will call at the Department of State on Saturday next, for the purpose of again conferring with your excellency.

With the highest consideration, etc.,

H. GUZMAN.

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[Inclosure.]

*Mr. Madriz to Mr. Guzman.*

NATIONAL PALACE,  
Managua, June 4, 1894.

MR. MINISTER: This office has received your excellency's note, No. 30, of May 7, in which you acknowledge instructions Nos. 168, 169, 170, and 171.

*Mosquito Reserve.*—The last news received indicates that the Reserve continues in a state of tranquillity, and the Government intends shortly

to issue a decree establishing certain reforms tending to order and good government in that district, such reforms, of course, having the provisional character required by the state of facts.

Minister Baker has just addressed this Government with regard to the arrival of Nicaraguan forces at Bluefields (Annex A), alleging failure to observe the agreement he made personally with the undersigned on the 5th of May, and characterizing the proceeding of the commissioner as an act of bad faith. I have answered him in the terms which you will see by the copy marked Annex B, and I invite your attention to this matter, which might possibly later on give rise to some difficulty. Such an agreement has not existed, nor could it have existed, seeing that it is not within the competence of the minister of the United States to intervene in matters which directly concern Nicaragua alone.

To the statements of my reply to Mr. Baker I ought to add that, according to a report from the commissioner, the soldiers went to Bluefields at the instance of the governor of police to assist in the pursuit of the fugitive criminal Argüello, whose capture was considered very difficult to effect with the slender police force of that town.

The commissioner reports, moreover, having advised the American minister of the motives for taking those troops to Bluefields, and adds that if the force had remained there, it was because there were well-founded grounds for fearing that a seditious movement might be attempted. However this may be, the commissioner is responsible for his acts to the Government of Nicaragua, but there is no right for the intervention of the American minister in the terms in which it is expressed.

*The Argüello case.*—The unfortunate incident of the death of Wilson, caused by Argüello, is occasioning difficulty to the Government. You already know the details of this lamentable affair, and are perfectly aware that the Government not only has deplored it in all sincerity, but also that it has done everything possible in order that the slayer of Wilson be judged conformably to law and be punished, if culpable. The temporary suspension of the governor of Rama, Señor Torres, which I ordered when I was in the reserve, has been declared final by the Government, and positive and energetic orders have been given for the capture of the offender. In a personal interview which Mr. Baker had with the President, the latter assured him that he would do everything that lay in his power and in the powers of the Government to the end that the fugitive criminal shall not escape condign punishment. This was so formulated by Minister Baker in a note of which I send you a copy.

In this communication Mr. Baker asks the removal of the commissioner, Don Carlos A. Lacayo, but without adducing against him a concrete charge whereon to base such a petition.

You should assure the Department of State that this Government has not beheld nor does it now behold with indifference the death of Wilson, and you should set forth, moreover, what has been done in this affair and the orders issued at the instance of my department by the ministry of justice, which has notified the authorities that they are under the strict duty of pursuing and capturing the delinquent. In the meantime the criminal is being tried in contumaciam in conformity with law.

*Consul Bingham.*—The withdrawal of the exequatur of the consul of Her Britannic Majesty at San Juan del Norte, Mr. Herbert F. Bingham, gave rise to representations on the part of the honorable English minister, Audley Gosling, who personally asked of the Government the



restoration of the said exequatur, alleging that no ground had existed for the determination of this Government. In the field of [international] law this department could successfully defend that action, but the undersigned determined to forego the purely theoretical discussion to which this would give rise without any positive result, and stated to Mr. Audley Gosling that he was disposed to hear friendly explanations but not to accept as a justification the reasons which he, Mr. Gosling, had adduced.

Mr. Gosling agreed thereto, as you will see by the memorandum of the conference which I have had with him, and \* \* \* in view of those explanations the Government deemed it appropriate to restore the exequatur in the terms set forth in the order which I send you. \* \* \* Perusal of the memorandum shows you that in this matter the dignity of the Republic has been maintained. I also send you copy of my report to the subsecretary in charge of the office relative to the conduct of Mr. Bingham in the occurrences at Bluefields.

*Consul Braida.*—Minister Baker communicated with this Government, representing in a friendly and cordial manner that he recognized the right, and even the justice, which pertained to Nicaragua in withdrawing the exequatur of the consul of the United States at San Juan del Norte, Mr. Sigismund C. Braida; but that as a tribute to the good relations existing between the two countries, and in view of the attitude latterly maintained by Mr. Braida in regard to the affairs of Mosquito, which had been friendly and respectful toward Nicaragua, he asked the restoration of the exequatur, which was done for these reasons and on account of the desire which the Government has to prove that it feels for that of the United States the best sentiments of friendship. By so doing there was, moreover, avoided the unfavorable impression which might have been produced in the mind of the American Government by only returning Consul Bingham's exequatur. The order by which it was directed that Mr. Braida shall continue in the exercise of his consular functions (Annex F) speaks for itself in explanation of the determination of the Government in this regard.

\* \* \* \* \*

The present communication having been thus far drafted, there has just occurred to-day the following incident. Minister Baker came to this department in company with Gen. Daniel Macauley, agent of the canal company, to state that he has clear and expressive instructions from his Government to support the said company in its claims touching the proposal of the ministry of fomento concerning the forfeiture of the Cardenas-Menocal contract, that it be submitted to the decision of a tribunal of arbitrators to be organized in conformity with article 55 of the contract. A similar statement was made by Mr. Baker two days ago to the President of the Republic. Mr. Macauley has already addressed to the respective ministries a letter in reference to this matter, which is under consideration.

In the course of the interview Mr. Baker said, in this ministry, that President Cleveland, and Secretary Gresham as well, were under the impression that Nicaragua was hostile to the Americans. And when I spoke to him touching the reasons he had for so believing, he answered me that it was proved by the attitude of this Government with regard to the canal company, since he did not think that Nicaragua could, conformably with law, declare the lapse (insubsistencia) of the contract for the sole fact of the company not having fulfilled the clause which stipulates the canalization of the Tipitapa, and that in doing so it would act in a spirit of opposition to the undertakers, whose credit was pro-

foundly affected by the statements of the ministry of fomento in the note of April 2, last, relative to the tribunal of arbitrators above referred to. That motives for that impression in the mind of his Government were found in the fact that the Government of Nicaragua had consented to the seizure, in San Juan del Norte, of the property of the company for the benefit of private individuals, and to the grave injury of the company. In referring to this Mr. Baker emphatically uttered these words: "To steal the property of the company." And he wound up by saying that the conduct of Nicaragua in the Argiello incident proved such hostility from the moment it supported Commissioner Lacayo, whose course he characterized as shameful (*vergonzoso*).

With the circumspection which was necessary, I answered Mr. Baker, dispelling his charges. I said to him that on more than one occasion had this Government given proofs of good will and condescension toward the canal company, cheerfully lending its aid to the settlement of serious difficulties, which perhaps originated with the company itself; and that in the present case, from the moment that the company had now addressed the Government through its agent seeking to invalidate the declaration of the ministry of fomento, I did not see that for our part the way was closed to a just, equitable, and friendly arrangement in view of the magnitude and importance of the opening of our interoceanic transit. What the ministry of fomento desired was to safeguard the rights of Nicaragua, and not in any way to injure the credit of an enterprise in which the future of this country was bound up.

With respect to the embargo of the property of the construction company in San Juan del Norte, in virtue of an order issued by the judicial power independently of the executive, I stated to him that I could not, in any manner, impute to the Government the fault thereof; and you will recall that in respect to this particular there exists an official communication from this department, of which I sent you a certified copy at the time, in order that if it were necessary you might throw light upon things at Washington.

As touching the incident of the death of Wilson, I adduced more or less fully the convincing proofs, which you already know, of the action of the Government directed to the capture of the fugitive criminal, and his trial according to justice by the proper authorities.

Mr. Baker concluded his interview by saying that the American war vessels *New York* and *San Francisco* still remained on our Atlantic Coast, and that Captain Watson had telegraphed to him asking orders as to his movements; but that he, Mr. Baker, had not sent him orders, as he was awaiting instructions from the Department of State, already announced to him, and which he supposed were on the way.

As it may be that behind all this there may be found something which might seriously compromise our interests in the reserve, it is proper that you should ascertain what truth there is in it in order to ward off unhappy consequences, and avoid the upright judgment of the American Government being distorted by reports destitute of truth.

I omitted to say to your excellency that upon Mr. Baker taking leave he stated that if not inconvenient he would ask to have with me an interview, when he should receive the instructions he awaited, since it might turn out, to judge from what the periodicals of the United States have lately said, that his Government might be under the impression (influence) of untruthful news with respect to the situation at Rama and Bluefields.



To-day I send you the following cablegram:

GUZMAN, *Washington*:

It is asserted that Captain Watson will receive instructions to disembark marines because the situation at Bluefields and Rama is believed to be unsafe.

We positively know the contrary. Ascertain and report by cable. This Government confides in the honorableness and friendship of the American Government.

MADRIZ.

I hope that your excellency will be pleased to report to this department touching this matter with as much detail as possible, and that in view of the importance of the case you will endeavor to throw light upon it so that the Government may know with certainty what to expect in the future.

*Extracts from periodicals.*—I give you an especial injunction to send extracts from the periodicals of the United States making direct or indirect reference to Nicaraguan affairs.

*The canal business.*—I deem it opportune, in view of the statements which, by reason of the arrival of the agent, Mr. Macauley, Minister Baker has lately made to this Government, to call your attention to the terms of the dispatch from this department to your legation, numbered 170, and dated April 7th, last.

I repeat to you the expressions of my highest consideration.

JOSÉ MADRIZ.

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ANNEX A.

*Mr. Baker to Mr. Madriz.*

LEGATION OF THE UNITED STATES,  
*Managua, May 29, 1894.*

SIR: I have the honor to call your attention to the inclosed letter, the original of which I have on file at this legation.

This letter goes to show that your agreement personally made with me on the 5th of May at Bluefields, by which you ordered all the armed soldiers, with their disturbing bugles and drums, from that town to the bluffs, was not observed many hours after I left there.

This seems to me an exhibition of bad faith and a contempt on the part of Commissioner Lacayo of the agreement and orders of his superior officer, which can not well be overlooked.

I have, etc.,

LEWIS BAKER.<sup>1</sup>

Es conforme.

[SEAL.]

MAYORGA RIVAS.

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ANNEX C.

*Mr. Baker to the Minister for Foreign Affairs.*

LEGATION OF THE UNITED STATES,  
*Managua, May 24, 1894.*

MR. MINISTER: In a personal interview on the 21st instant with his excellency the President I was assured of his purpose to do what lay in his power and in the power of his Government to recapture and properly punish the escaped prisoner, Argüello, who, while a public official of Nicaragua, shot down and murdered an American citizen, William Wilson by name.

In the same conversation, in order to show the friendship of this Government for its good friend the United States, he announced his purpose of punishing the culpable officer through whose lax administration, if not actual connivance, the prisoner was allowed to walk out of an unguarded jail.

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<sup>1</sup> Annex B, Mr. Madriz to Mr. Baker, was transmitted by Mr. Baker. See inclosure 2, page 295.



I have waited with much patience until this time for an announcement of the fulfillment of this purpose. Having heard nothing further from his excellency on the subject, I now must carry out my imperative cable instructions from the President of the United States in "asking instant and effective redress," and "to demand the immediate removal of Governor Torres," whose failure to obey the instructions of his superior officers in regard to the confinement of the prisoner was a scandal to your own Government and an insult to mine, and "the removal from the officer of commissioner to the Mosquito Reservation of Carlos A. Lacayo, who is held by the President to be even more culpable than Torres."

I have, etc.,

LEWIS BAKER.

Es conforme.

[SEAL.]

MAYORGA RIVAS.

ANNEX C.

*Mr. Baker to Mr. Madriz.*

LEGATION OF THE UNITED STATES,  
*Managua, June 10, 1894.*

MR. MINISTER: Your communication acknowledging the receipt of an official communication from the United States Government, which I had the honor of presenting under instructions to you in person, and an impartial reply thereto, reached me yesterday. As soon as the voluminous documents accompanying the communication have been translated I will reread them with care and forward them to Washington for the information of my Government. In the meantime I can but express my regret to find in your excellency's communication no assurance that Noyles, the accomplice of the murderer of Wilson, shall be dealt with according to his deserts or that your Government will "adopt such measures as will leave no doubt of its sincere purpose and ability to protect the lives and interests of the peaceable citizens of the United States dwelling in the Mosquito Indian Reservation and to punish crimes committed against them."

With renewed assurances, etc.,

LEWIS BAKER.

Es conforme.

MAYORGA RIVAS.

MANAGUA, *June 14, 1894.*

[Seal of the minister of foreign relations of Nicaragua.]

ANNEX C.

*Mr. Madriz to Mr. Baker.*

MANAGUA, *June 13, 1894.*

Among the papers accompanying my note No. 259 of the 8th instant are two which entirely satisfy the purposes of the Honorable Secretary Gresham's dispatch.

One is the note addressed by the minister of justice to the commissioner of the Mosquito Reservation, dated June 2, directing the arrest and trial of Noyles, as well as his punishment if found guilty.

In that note and in the one which I addressed to the new governor of Rama, dated May 6 last, instructions were given that officer in regard to the line of conduct he should follow, in order to give no grounds for any complaint, and to efficiently protect the lives and interests of citizens and foreigners.

These instructions, communicated before your excellency came and read me Mr. Gresham's dispatch, ought to thoroughly satisfy your excellency. Nevertheless, I do not desire for my part to omit any friendly act, and I therefore declare to your excellency:

(1) That Charles Noyles shall be brought to trial, as has been already ordered, and if found guilty shall be punished in accordance with law.

(2) The Government has issued orders and taken measures which clearly evidence "its sincere purpose and its readiness to protect the lives and interests of American citizens residing in the Mosquito Reservation and to punish offenses committed against them."

Your excellency has declared on various occasions, in reference to these matters, that you did not doubt the honorable intentions of the Government; I therefore appeal to your excellency's own opinion.

I avail, etc.,

JOSÉ MADRIZ.

A true copy.

MANAGUA.

*Mr. Baker to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
*Managua, July 11, 1894. (Received August 3.)*

SIR: I beg to acknowledge the receipt of yours bearing date of June 30, referring to the replacing of soldiers in the town of Bluefields by the Nicaraguan authorities after their removal had been agreed to as a prudential measure by Mr. Madriz, the special commissioner to the Mosquito Indian Reserve.

I have carefully read your instructions contained in this communication and I fully appreciate the soundness of the principles laid down, as well as the necessity of a strict observance, on my part, of those principles. I have not failed to comprehend the true relations of Nicaragua toward the Mosquito Indian Reserve and the relations existing between the United States and Nicaragua on the one hand and the Mosquito Reserve on the other.

What I sought to do was to allay strife and bitterness and misunderstandings where such existed. On my arrival at Bluefields, about April 26, I found the conditions about as bad as they could be. Neither the Nicaraguan authorities nor the foreign citizens were wholly to blame, but a condition bordering on anarchy existed. Ignorant men, without discipline, armed with muskets, promenaded the streets day and night, often in a frenzied manner, provoking frequent disturbances. Some of these "soldiers" were criminals released from the prisons, which latter were thrown wide open on the night of the "occupation." The mere presence of this armed rabble upon the streets was provocative of breaches of the peace.

\* \* \* \* \*

I deemed it my duty, in the exercise of a wise discretion as to the best mode of securing protection to American citizens residing in Bluefields, to attempt to secure the removal of the firebrand from their midst. In doing so there was no denial of the sovereign rights of Nicaragua, directly or by implication. Mr. Madriz seemed to be in full sympathy with the views I expressed as to matters of policy, and readily agreed to the wisdom of removing all causes of irritation possible. His promise to remove the soldiers from Bluefields was voluntarily and cheerfully made.

My object in inclosing to you the note of Mr. Charles Lobner, as I did in my No. 282, was for the purpose of giving you another illustration of the contempt in which Gen. C. A. Lacayo, the commissioner, held the orders of his superior officer, Mr. Madriz.

I have, etc.,

LEWIS BAKER.

*Mr. Braida to Mr. Uhl.*

CONSULATE OF THE UNITED STATES,  
*San Juan del Norte, July 11, 1894. (Received July 25.)*

SIR: I beg to transmit you herewith copies of No. 1, Capt. B. B. Seat's, our consular agent at Bluefields, report concerning the last uprising; No. 2, copy of a "bulletin," etc.; No. 3, copy of Chief Clarence's proclamation resuming his former government.

Knowing that Captain-Commander O'Neil had gone to Port Limon in order to cable the events, I shall only give Hon. L. Baker telegraphic information from Port Limon per royal mail steamer.



The British man-of-war *Magicienne* was absent when all occurred. The consul of Her Britannic Majesty, Mr. Bingham, is instructed not to go to Bluefields, in whatever such case, any more. He cabled to London and to Guatemala. The outbreak of a revolution in the interior is generally expected every day and publicly discussed.

Our mail communication is very bad, the bar being very dangerous, and often closing even for small caril crafts.

I have, etc.,

S. C. BRAIDA,  
*United States Consul.*

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[Inclosure 1.]

*Mr. Seat to Mr. Braida.*

UNITED STATES CONSULAR AGENCY,  
*Bluefields, Nicaragua, July , 1894.*

MY DEAR SIR: I have the honor to report herewith an unexpected and radical change in the situation since my last official note to you. On Thursday, the 5th instant, a number of employees of the provisional council, composed chiefly of Jamaicans, who had been acting as policemen, presented their claims at the headquarters of General Cabezas, demanding their pay for services previously rendered. The provisional treasurer, one Aubert, endeavored to put off matters, and this incensed the Jamaicans. This led to an angry altercation between the officials and the Jamaicans, the latter claiming that they were badly treated in not being promptly paid for their services. They were finally paid off, however, but not until after a squad of the Nicaraguan soldiers had attacked them and several of the Jamaicans had been beaten with guns and wounded by the bayonets.

After this episode all the police force resigned and all the officials of the provisional government except Aubert and Mongrio (the judge).

Three of the Jamaicans were sent to jail by order of General Cabezas, and the order was executed by the soldiers.

At once excited groups appeared all along the principal street, and this continued until night.

At about 9 p. m. a large crowd surrounded the new Government buildings and opened a heavy fire on it. The attacking party was composed of natives and Jamaicans.

The firing was kept up at intervals until after midnight—the Nicaraguan soldiers returning the fire from the buildings.

After about 1 o'clock the firing ceased and all was apparently quiet except one occasional shot, which gave assurance that the excited crowds were still scattered along the street, where they remained until daylight. On the morning of the 6th instant a bulletin was issued and posted on the streets, signed by Robert Henry Clarence, declaring that he had reassumed his rightful authority as hereditary chief of Mosquito and calling on all persons to recognize his said authority in the Mosquito Reserve.

The excitement continued, and late in the evening a formal demand was made upon Cabezas to surrender. He asked until morning to consider the terms proposed, and it was finally granted to him.

The same evening a small party sailed out to the bluff, and after killing two of the Nicaraguan soldiers and wounding a third, they captured six or seven prisoners, one Krupp gun, and about three hundred rifles, all of which were brought to Bluefields.



On the morning of the 7th instant Captain Commander O'Neil was on shore. Cabezas sent for him, and after a few hours Cabezas was permitted to send his 35 soldiers and the prisoners away to Rama, and Cabezas himself was permitted to remain as the Nicaraguan commissioner to the reserve.

The Krupp gun and rifles were to be turned over to Captain O'Neil. All the public records and archives were to be turned over to the Mosquito delegation, and Cabezas was to issue an order to Nicaraguan officials along the coast to vacate and turn over to the Mosquitos.

On the night of the 5th, when it was known that an attack on the buildings of Cabezas had been planned, I signaled the *Marblehead* with rockets and sent off a boat with a dispatch to Captain O'Neil, accompanied by a petition from the American residents, asking that a force be placed on shore for the protection of life and property.

The dispatch did not reach the *Marblehead* until about 1 o'clock in the morning, and owing to the roughness of the bar the marines did not reach Bluefields until on the 6th, about 1 p. m.

Sixty of them came on shore and are now bivouacking at the courthouse under command of Lieutenant Bowman.

A magistrate was appointed and a police force of some thirty men was organized, which is now the civil authority of the reserve.

The *Marblehead* sailed to Port Limon to forward dispatches on the night of the 7th, and returned this morning.

Much excitement continues and rumors are numerous on the streets, the last to the effect that the Nicaraguans at Rama are organizing a force of 500 men and that they are coming down to wipe out everything—Americans and negroes, and men and women and children alike. I am satisfied that only the presence of the American man-of-war will prevent them from making an attack, and that if they should be successful in such attack it would be disastrous to natives and foreigners alike. Of course they are now claiming that the Americans were connected with the assault, as I learned to-day. But if there were any of them so connected with this movement it was only two or three irresponsible parties, who are entirely unknown. I don't believe any of them had anything to do with it, but that it was an impromptu uprising of the natives and Jamaica negroes. If they should make an attack now it will be quite different from what it was when Lacayo came here a few months ago.

Yours, respectfully,

B. B. SEAT,  
*United States Consular Agent.*

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[Inclosure 2.]

*Bulletin.*

PATIENCE HAS CEASED TO BE A VIRTUE—NICARAGUA'S HOSTILE TREATMENT TOWARD THE CIVILIAN POLICE CREATES AN UPRISING—A REINFORCEMENT FROM THE BLUFF THREATENS TO LAY THE "NIGGERS" LOW—BALLS WHOOPED THROUGH THE TOWN LAST NIGHT—PRISONERS SET AT LIBERTY—FLAGS TORN DOWN—GENERAL CABEZAS AND PROVISIONAL TREASURER AUBERT SAID TO BE RESPONSIBLE.

For several weeks there has been a general growling among the employees of the provisional government for payment of salaries due them. Continued appeals and frequent visits were made at the head-

quarters for settlement, but alas! the same old cry, "There is no money in the chest." On Saturday last, when it was seen that four large bags containing about \$1,200 were conveyed thither, employees cherished a hope of being paid. Fortunately a few provisional ones were, but the unfortunate policemen were not. \*

Yesterday, 5th instant, at 3.30 p. m., about ten police and other employees (laborers) visited the treasurer in order to be paid. They were kept in suspense for a long while and became exasperated and talked loudly. They were threatened to be put out, but afterwards called by General Cabezas, but so soon as they followed him inside in another apartment they were met by a guard of Nicaraguan sentinels, under arms, who charged bayonets on them and further demanding silence. The men, realizing their position, tried to resist this piece of austerity, which resulted in a collision between staffs, bayonets, and gun butts. Of the several blows inflicted both ways, one police sustained loss of some blood, having received a cut on the forehead from a bayonet. Command from a superior authority terminated the conflict and the police were paid forthwith, except three, who were confined. Those that were paid demanded release of the others, but were put out with threats and at the point of the sword, which threats meant that soldiers from the bluff would come in to keep them (the negritos) low, as they were boisterous. Matters remained quiet for a while, but the inhabitants were in a fever of excitement when the bugle was sounded at the cuartel at about 8.30 p. m. Rifle shots passed through many houses in various directions from 10 p. m. until almost daylight, causing alarm and great fear to the general public.

Luckily only one man was hurt from a bullet. The cuartel and the houses opposite, from the effects of the shattered boarding and broken glass windows, apparently seem to be the spot of the conflict in which civilians and soldiers fought to a finish. At daybreak the flags of both Mosquito and Nicaragua were discovered to be missing off the flag pole, and all prisoners released. Signs for assistance were appealed to from the American warship *Marblehead*, lying off the bluff, but she failed to comply, as the bar was rough at that hour.

Had the greater part of the male population not been on their plantations the result might have been very disastrous, as such a raid would not be permitted.

The citizens are determined not to allow any more of dogged intrigues to be played on them. It is the general opinion that if General Cabezas had not sent away the money, and if Treasurer Aubert had paid the men previously, this occurrence would not be likely to occur, but report says that the Nicaraguans intend to lay the "niggers" low, consequently an uprising is imminent at any moment, as soldiers are expected to arrive from Rama. But the civilians are on the qui vive.

Nicaragua fails to govern American marines and blue jackets landed. Provisional council members resign. Natives, now is your time to form a new council and protect yourselves. Delay is dangerous.

Mosquito flag floated again predominant at 12.30.

[Inclosure 3.]

*Proclamation.*

MOSQUITO RESERVATION,  
Bluefields, July 6, 1894.

I, Robert Henry Clarence, hereditary chief of Mosquito, hereby proclaim that I have reassumed my rightful authority as chief of Mosquito and I call upon all law-abiding and loyal residents to obey my authority and that of my office.

ROBERT HENRY CLARENCE,  
*Chief of Mosquito.*

*Mr. Gresham to Mr. Baker.*

[Telegram.]

WASHINGTON, July 12, 1894.

Nicaraguan minister here is advised by his Government of an insurrection in Mosquito participated in by Americans. Full and prompt report by you is desirable.

*Mr. Guzman to Mr. Gresham.*

[Translation.]

LEGATION OF THE REPUBLIC OF NICARAGUA,  
Washington, July 12, 1894. (Received July 18.)

SIR: I have the honor to send your excellency copy of a cablegram I have just received from my Government, and I permit myself to invite your excellency's attention to the gravity of the matter which gives rise to that dispatch.

I have, etc.,

H. GUZMAN.

[Inclosure.—Telegram.]

*Mr. Madriz to Mr. Gresham.*

MANAGUA, July 10, 1894.

General Cabezas reports rising in Mosquito with participation of Americans. Government will act energetically. Endeavor to impede arrival of aid from United States and notify that rebels will be treated according to laws of war.

*Mr. Gresham to Mr. Baker.*

DEPARTMENT OF STATE,  
Washington, July 12, 1894.

SIR: Since your dispatch of May 30, 1894, was answered by my instruction of the 13th ultimo, I have received yours of June 9, in further relation to your allegation that an "agreement" between yourself and Señor Madriz for the evacuation of Bluefields by Nicaraguan troops had been violated by Commissioner Lacayo.



Señor Madriz's note of June 2, as transmitted by you in translation, appears to recognize the "personal agreement" of May 5 and admits its violation.

Owing to an inaccuracy in translating the third paragraph of Señor Madriz's note, you seem to have misapprehended the import of his reply. That sentence should read:

"Certainly if, departing from what my instructions contemplated, Señor Lacayo has again brought soldiers to Bluefields, he has not fulfilled the orders which I communicated to him, and must answer to the Government for his acts. A full report on the subject has consequently been asked for."

This seems to make the issue wholly between the Nicaraguan Government and its agent, and this view is strengthened by the remainder of the minister's note to you, which it is observed you have omitted to send here.

In a recent conference with Dr. Guzman, he had occasion to show me copies of correspondence lately exchanged between you and Señor Madriz. On reading Señor Madriz's note to you of June 2, I remarked that instead of terminating with the passage above quoted it went on to narrate in detail the circumstances under which Señor Madriz had deemed it advisable to station the troops at the bluff, and controverts the supposed agreement to which you appealed. His Excellency explicitly says that "the Government of Nicaragua could not permit its right to be questioned to occupy that region (the Mosquito Reservation) with its troops whenever, in its judgment, such a thing was desirable in order to guarantee the internal or external safety of the State."

Dr. Guzman having kindly furnished me with a full copy of the paper in question, I send you a transcript thereof. The translation is the minister's.

It is proper to advert to the necessity of the Department being fully and accurately advised, without delay, of all correspondence of this nature, in order that it may intelligently consider the facts with full knowledge of all the details, and I shall be pleased to have your explanation of the important omission to which I have referred.

I am, etc.,

W. Q. GRESHAM.

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[Inclosure. ]<sup>1</sup>

*Mr. Madriz to Mr. Baker.*

MANAGUA, June 2, 1894.

I have had the honor to receive your excellency's polite communication of the 29th ultimo, whereby you were pleased to call my attention to a letter which had been addressed to the legation under your worthy charge by an American citizen of Bluefields, and which had reference to the arrival of an armed force in said city, and to the continuation of the military toques (drum calls?) therein, which had been suspended in pursuance of an order issued by me in my capacity as commissioner of the supreme Government.

Your excellency says that this is contrary to the agreement which we personally concluded on the 5th of May, and you refer to the act of the commissioner as an act of decided bad faith.

Certainly if, departing from what my instructions contemplated, Mr.

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<sup>1</sup> See inclosure 2 in Mr. Baker to Mr. Gresham, page 295.

Lacayo has again brought soldiers to Bluefields, he has not fulfilled the orders which I communicated to him, and must answer to the Government for his acts. A full report on the subject has consequently been asked for.

Let me be permitted to make a brief statement with regard to the circumstances which led to the removal of the Nicaraguan soldiers to the bluff, in pursuance of my order.

Before the arrival of the force I told Captain Clarke, of the British ship *Magicienne*, that the said force, in case it should arrive as was announced, would be stationed where the Government should order it to be stationed, either at the bluff, at Bluefields, or at some other place on the reservation or on the coast, because the Government of Nicaragua could not permit its right to be questioned to occupy that region with its troops whenever, in its judgment, such a thing was desirable in order to guarantee the internal or external safety of the State; that, however, if that force did not come for the purpose of being stationed at any particular point, I would order it to remain at the bluff, where it would give less cause of disquiet to the inhabitants of Bluefields, in whose tranquillity I was interested. Captain Clarke politely told me that he did not dispute Nicaragua's right to occupy the region with troops, but that he merely confined himself to recommending that I should adhere to my determination to keep the force at the bluff.

A few days afterwards I received a call at my office from Captain Watson, in command of the North American vessel *San Francisco*, and as, in the talk that we had, my conversation with Captain Clarke was referred to, I repeated to Captain Watson the same words that I had used before, and received from him an expression of about the same opinion that I had received from the other.

On the day on which I had the honor to accompany your excellency on your journey to Rama, we conversed in a private and friendly way concerning the soldiers who were at the comisaria, you remarking that the residents complained of the military toques (drum calls?), to which they were not accustomed. I stated to your excellency in reply that those troops were at the comisaria because the commanding general had so ordered, but that, as soon as I should receive a reply to a telegram which I had sent to Managua in relation to the matter, I would order the removal of the troops to the bluff.

I then understood, as I now understand, that your excellency's observation was a purely friendly one, and, as I considered your advice as being well founded, I had no hesitation in declaring that I was willing to follow it, especially since that had been my intention ever since the coming of the men was announced.

Having received such a reply from Managua as I desired, I felt very glad and took great pleasure in informing your excellency, in our interview of the 5th (you being a friend of the Government and my own personal friend), that I had issued orders for the removal of the troops from Bluefields. The measure had already been adopted; my notification was given subsequently to the order. Your excellency politely signified your gratification.

The foregoing statement has been made on account of my desire that your excellency should not regard the act of Commissioner Lacayo (if anything wrong has really been done by him) as anything more than an act of disobedience for which he will be required to answer, and not as the violation of an engagement, for, apart from what I have stated, he had no knowledge whatever of what was said in our farewell conversation. He received an order from me without any explanation.



The order to remove the troops to the bluff has been reiterated to him, because the Government thought proper that this should be done; and with regard to his past action he has been directed to make a report.

Special instructions have been sent him, moreover, touching the course which he is to pursue in future.

With the highest respect and consideration, etc.,

JOSÉ MADRIZ.

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*Mr. Baker to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
Managua, July 14, 1894. (Received August 3.)

SIR: The Government here gave out word some days ago that "an insurrection of the negroes at Bluefields had broken out under the leadership of a Hollander named Reuling, and participated in by American citizens," and announced the purpose of sending at once 1,000 men and 4 cannon to put down the uprising.

When questioned by me, the President and his minister for foreign affairs informed me that the news of this affair had been telegraphed to them from Port Limon, Costa Rica; that they were in possession of no further particulars; that the telegraph line between Managua and Grey Town was down; and that there was no way in which anything like speedy communication could be had between this place and Bluefields. You may not be aware of this unpleasant truth, that neither telegrams nor letters are conveyed by this Government on such occasions unless entirely agreeable to them. In this case the President frankly informed me that communication with Bluefields was suspended.

In view of the fact that there is, and has been all the summer, a United States man-of-war at Bluefields, and the further fact that news from Bluefields via New Orleans to Washington can be sent in six or seven days, I am sure that you are in possession, both through the Navy Department and from Capt. B. B. Seat, the United States consular agent at Bluefields, of much more satisfactory reports than it is possible for me to obtain here.

I am still disabled from travel by an attack of fever, and am really disqualified for performing office work even; yet I am doing my best, under most discouraging circumstances, "to keep up my end."

I have, etc.,

LEWIS BAKER.

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[Inclosure.—Translation.]

*Mr. Madriz to Mr. Baker.*

NATIONAL PALACE,  
Managua, July 10, 1894.

MR. MINISTER: In a telegram dated at Port Limon the Government is informed by the inspector-general of the Atlantic Coast that an insurrection of the negroes at Bluefields has just broken out, under the leadership of a Hollander, Reuling, and participated in by American citizens.

The inspector and the small force who were on duty have been compelled to evacuate the reserve, after having witnessed the death of two of their number and the wounding and capture of others.



Confronted by such an attack the Government deems it expedient to take energetic steps toward the recovery of their national rights and the punishment of the authors of such a criminal act. It is very painful to it to learn that there are American citizens implicated in the uprising, because against its wish it will have to apply the penalties of the laws of war to them.

If your excellency can bring any influence to bear which may prevent the further participation of your countrymen, you will be doing an act of humanity and free the Government from the painful necessity of severely punishing people whom it wishes to bring back to obedience and legitimate neutrality by peaceful and gentle means.

I hope your excellency will be good enough to inform me by telegraph at Leon, to which place the Government is going to-day, of the measures you may take for effectually preventing the intervention of the Americans in the rebellion in the reserve.

With the highest consideration, I subscribe myself, your very obedient servant,

JOSÉ MADRIZ.

*Mr. Braidà to Mr. Uhl.*

CONSULATE OF THE UNITED STATES,  
*San Juan del Norte, July 18, 1894. (Received August 4.)*

SIR: In addition to my dispatch of yesterday I have to report that Mr. H. F. Bingham called on me this morning, announcing to me his promotion as secretary of the legation and near departure for San José, Costa Rica. \* \* \*

I learned:

(1) That the admiral, on his suggestion, had ordered the gunboat *Mohawk* to reinforce at Bluefields (she carries six guns and can enter the lagoon).

(2) That he had reports that the negroes at Corn Island had revolted, shooting down a few Nicaraguans, throwing down the flag of this Republic, and finally burning the house of the governor. I admitted to have heard so too, and even that the British flag had been hoisted, and that I think that this will raise an uproar in the United States; that I would like to make known as soon as possible to the United States Government what the standpoint of Her Britannic Majesty's officials would be in regard to such outrages and revolution.

Mr. Bingham said that he could not believe in the hoisting of the British flag for the reason that there are people at Corn Island who ought to know better, to know that Corn Island belongs to Nicaragua.

The governor of this port grows every day more arbitrary, forcing foreigners into his military troop, which he compels to stay every night in the Government's buildings. Having no cipher code, I requested Mr. Bingham, who called on me in this same affair last night, to forward a cipher telegram to the Hon. L. Baker, through the British consul at Granada in my name, asking for instructions.

Mr. Anderson, an Englishman, owner of a rich plantation on the Nicaraguan side of the San Juan River, bought a house, lumber, provisions, etc., in the United States and shipped everything to this free port, expecting to enter these goods free of duty according to the reciprocity treaty. Governor Rivas now forces him to pay 12 to 13 per cent duty for the Grey Town tax, he being 10 miles far from town. The

feeling among the natives is almost more intense than that of the foreigners against this local government, and everybody is convinced that this provoking attitude must lead, or even seems to be intended to lead, to trouble, and therefore I considered it my duty to report the danger of the situation.

The British and the German consuls did the same to their respective Governments.

I have, etc.,

S. C. BRAIDA,  
*United States Consul.*

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[Inclosure.—Telegram.]

*Mr. Braidà to Mr. Baker.*

Local troops being organized by local authorities at this place. Local government at this place have demanded that foreign subjects be compelled to enter into forced military service in accordance with new constitution. Must citizens of the United States of America be compelled to enter into this forced military service at this place? Please send me instructions at once.

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*Mr. Gresham to Mr. Bayard.*

DEPARTMENT OF STATE,  
*Washington, July 19, 1894.*

SIR: I have to acknowledge the receipt of your dispatch of the 28th of May, in which you report a recent interview with Lord Kimberley touching the Bluefields incident, and communicate the desire expressed on behalf of Her Majesty's Government to act in accord with the United States, and in deference to our judgment in dealing with the question.

It gives me pleasure to commend the views which you so clearly expressed to Lord Kimberley.

During your incumbency of this office, in an instruction to Mr. Phelps, our minister at London (No. 999, of November 23, 1888), you called attention to the fact that as long ago as 1853 Lord John Russell pointed out to Mr. Crampton that "the Mosquito Indians, instead of governing their own tribe according to their own customs, furnish a name and title to Europeans and Americans who carry on trade at Grey Town and along the coast of Mosquito according to the usages of civilized nations." This control of the affairs of that region by alien residents continued until the treaty of Managua was concluded in 1860, one of the obvious purposes of which was the correction of this abuse and the removal of all pretext for the intervention of any foreign protector or interested power. The condition described by Lord John Russell as notoriously existing in 1853 most certainly exists to-day. Indian government within the meaning of the treaty in this part of the territory of Nicaragua has never existed, and owing to the incapacity of the Indians it may be safely said never will exist. Great Britain, by her solemn renunciation of a protectorate of any kind over the Indians, was of course barred from intervening to establish or advise an Indian government; and it may be well here to remark that when it was concluded in 1860, the treaty of Managua was regarded by the United States as a satisfactory settlement of the Central American policy or question, simply and solely because it was believed to terminate, once



for all, the British claim to protect the Indians. With the details of the relations between them and the expressly recognized territorial sovereign the United States had no concern.

My instruction to you of April 30, No. 374, will have shown that the late attempts to organize, through alien intervention, a government for the Mosquito Reservation wholly foreign to the scheme provided by the treaty of Managua were deemed by us to be at variance with the policy and engagements of half a century. Acceptance of the implied invitation of Lord Kimberley for the United States to join with Great Britain in devising a solution of the problems growing out of the Bluefields incident might imply a willingness on the part of this Administration to depart from the consistent policy pursued by previous Administrations in dealing with Central American questions.

The situation at Bluefields, and elsewhere in the strip, presents no question difficult of solution. The sovereignty of Nicaragua over the whole of the national domain is unquestionable. She has granted or secured to certain Indians within part of her domain the right of self-government, under expressed conditions and limitations. It may be safely said that such government does not exist, and has not existed in the Mosquito territory. An alien administration, in other interests than those of the Indians notoriously exists, especially at Bluefields. Nobody is deceived by calling this authority a Mosquito Indian government. No matter how conspicuous the American or other alien interests which have grown up under the fiction of Indian self-government, neither the United States nor Great Britain can fairly sanction or uphold this colorable abuse of the sovereignty of Nicaragua.

So far as American rights of person and property in the reservation are concerned, this Government can not distinguish them from like rights in any other part of Nicaragua, and should they be invaded we could only look to the territorial sovereign for redress. This being so, the United States could neither participate in nor sanction any device whereby the ultimate authority and international responsibility of Nicaragua in respect of American citizens in the reservation might be impaired or restricted.

These general considerations are submitted for your guidance in dealing with any suggestions Lord Kimberley may advance.

I am, etc.,

W. Q. GRESHAM.

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*Mr. Baker to Mr. Gresham.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
Managua, July 20, 1894. (Received July 22.)

Uprising of Indians and Jamaica negroes at Bluefields extremely unfortunate. They restored Chief Clarence and set up government. Presence of United States marines prevents further bloodshed. Minister Madriz goes down and will take letters from me advising Americans of their duty to the sovereign Government.



*Mr. Gresham to Mr. Bayard.*

DEPARTMENT OF STATE,  
Washington, July 23, 1894.

SIR: Since my instruction to you of the 19th instant, in relation to affairs in the Mosquito Reservation, was written, a change in the situation has been abruptly brought about by a hostile movement against the Nicaraguan authority, participated in, I fear, by Americans.

Details have not yet been received, but from the telegraphic reports of our minister in Nicaragua and the commander of the U. S. S. *Marblehead*, it would appear that the uprising resulted in the ousting of the Nicaraguan garrison at Bluefields, the seizure of the bluff by the attacking forces, and the restoration of the chief, Clarence.

It is gratifying to learn that the presence of marines landed from our war vessels prevented further acts of violence, and I am informed by Minister Baker that he has advised the American residents of Bluefields touching their duty toward the sovereign Government. It is hoped that these timely precautions will contribute to the maintenance of tranquillity and prevent unlawful interference of citizens of the United States in a matter which only concerns the Nicaraguan Government and the Indians dwelling in its territory.

The only limitation imposed by the treaty of Managua upon the sovereignty of Nicaragua over the Mosquito territory was the right of the Mosquito Indians to govern themselves and others inhabiting that country according to Indian usage and custom. The sovereignty of the Government with that exception is as complete over the strip as over any other portion of its territory, and if the Indians themselves do not or can not exercise that right or privilege, it can not be exercised by aliens in their name. While this Government will protect all the legitimate rights of Americans sojourning or transacting business in the reservation, it can not support them in an effort to establish and maintain an essentially alien municipal government.

I am, etc.,

W. Q. GRESHAM.

P. S.—I inclose for your further information a copy of a telegram received from Mr. Baker<sup>1</sup> since the above instruction was signed.

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*Mr. Braida to Mr. Uhl.*

CONSULATE OF THE UNITED STATES,  
*San Juan del Norte, July 23, 1894. (Received August 6.)*

SIR: I beg to transmit you herewith a report which I received last night from our consular agent at Bluefields.

I include copy of Commander O'Neil's note of July 14, addressed to the captains and owners of ships under the flag of the United States trading in these waters; copy and translations of Gen. R. Cabezas's note to the United States consular agent and to the British vice-consul at Bluefields, declaring the chief, Robert Henry Clarence, and all those who participated in the last uprising, rebels, and that they shall be judged according to martial law by a military court. Declaring the district of Sigüia (Mosquito included) in a state of siege.

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<sup>1</sup> See page 312.

Chief Clarence's note to Consular Agent Mr. B. B. Seat, notifying him of the appointment of four members (two Americans and two Englishmen) to fill the vacancies in the executive council. These gentlemen are very respectable people.

I have to report that Her Britannic Majesty's gunboat *Mohawk* arrived here yesterday noon, bringing dispatches to the consul and bound for Bluefields. I received several letters from people at that place, all stating that they will defend their homes against whatever attack by the Nicaraguans.

Six protests were filed at the United States agency at Bluefields about General Cabezas's stopping the steamers, tugs, and other ships in the fruit trade, retaining them at Rama, which caused a great loss of bananas prepared for export. I also have to report the wreck of the American steamer *Geo. Sealy*, one of the fruit traders, on a reef near old Providence, July 11, A. C.

I beg to remain, etc.,

S. C. BRAIDA,  
United States Consul.

P. S.—The governor of Grey Town expects troops from the interior, intended to be sent to Bluefields, and makes all preparations for their shipment.

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[Inclosure 1.]

*Mr. Seat to Mr. Braida.*

UNITED STATES CONSULAR AGENCY,  
*Bluefields, Nicaragua, July 16, 1894.*

MY DEAR SIR: I have the honor to report herewith that on Saturday, the 14th instant, there were presented at this office several written protests against the seizure and detention of certain steam tugs, boats, and barges, the property of American residents, by order of Gen. Rigoberto Cabezas, as commissioner, etc., at Rama.

The said protests were made by Mr. Thomas Waters, agent of the Bluefields Banana Company; Mr. A. B. Orr, representing the firm of Orr & Laubenheimer, and Mr. Burke, tally agent for Messrs. Brown & Harris. Copies of the said protests are herewith inclosed.

Authenticated copies of the said protests were immediately forwarded to Captain O'Neil, commander of the U. S. war ship *Marblehead*, and also to Lieutenant Bowman, commanding detachment of United States marines at Bluefields.

On Sunday, the 15th instant, the fruit steamer *Hispania* steamed up the Rio Escondido, having in tow the steam launch of the *Marblehead*, with Captain O'Neil himself on board, and boat's crew (marines) and one Gatling gun.

The *Hispania*, with the said launch in tow, arrived at the wharf at Rama about 6 o'clock p. m.

Captain O'Neil went on shore, and after a brief interview with General Cabezas, the steam tugs, barges, etc., were released. Captain O'Neil remained in Rama during the night and returned to Bluefields this evening.

The steam tugs also came down from Rama, five of them. The river steamer *Hurdy* is also here, tied up at the wharf, and will probably make no more trips up the river until an adjustment of the troubles is effected.

The steamship *Nicaragua* went up the river this morning, the 18th, but will not go to Rama, and will get her cargo from the lower river.



The commerce of the place has been so disastrously affected that the fruit on most of the plantations is rotting, and the laborers refuse to take employment on the upper river and its tributaries, claiming that they are afraid of violence at the hands of the Nacaraguans.

Very little communication is now maintained between the town of Bluefields and Rama. Nearly all American families on the river have come down to Bluefields in order to avail themselves of the protection afforded by the presence of the American marines now on shore at Bluefields. The town is patrolled at night by a strong police guard, supplied by the local authorities—that is, Clarence and his crowd.

The foreign residents also keep out a watch for their own protection, in order not to be taken by surprise.

July 19.—Mr. A. B. Orr has just arrived from Rama and reports all quiet and no apparent movement indicating an attack on Bluefields.

Yours, sincerely,

B. B. SEAT,  
*United States Consular Agent.*

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[Inclosure 2.—Translation.]

*General Cabezas to the American and British consuls at Bluefields.*

IN THE RIVER ESCONDIDO, AT ———,  
*On the afternoon of the 12th day of July, 1894.*

The members of the provisional council being congregated by order of its president for to deliberate on the events that occurred from the 5th to the 8th of July, it is manifest that having absolute occupation, imposed by the circumstances we nominate to restore them Mr. D. H. Thomas, who was called immediately to take possession of his place, and there under his presidency was opened for discussion, having in sight the proclamation of Mr. Robert Henry Clarence, in which he reassumes the command of the Mosquito Reserve, from which he was despoiled by the Supreme Government, and by an expressed consent, celebrated between the commissioner and Her Britannic Majesty's consul.

This act, outside of being flagrant usurpation of authority, is illegal, because various crimes center thereon:

That of lese sovereignty, because the multitudes ran through the streets grasping rifles, and keeping up a continual fire on the palace of the Nicaraguan Government, which lasted from 9 p. m. until 4 a. m. of the 6th instant; the discharges and mutinous clamor and outcry disturbed profoundly the order, and they imposed by their violence a dangerous uneasiness to all the peaceable citizens in the city.

That of disrespect to the sovereignty, intimidating the representative of the Republic and military chief of the coast, causing him to yield.

That of assassination, committed on the soldiers of the Republic who were in charge of a piece of artillery on the bluff, and who, taken by surprise, were killed.

The basis of the usurper government rests in blood, and this Government, viewing all the detestable characters of the crime of high treason, in virtue thereof, all their acts are void of effect, and considering that it is necessary to provide measures of repression until the supreme Government resolves that suitable, the legitimate constituted provisional council agrees to declare:

(1) That all dispositions or acts emanating from Robert Henry Clarence or his council will be null and void.



(2) Disauthorizing all those factious employees from receiving or delivering rents or taxes of the reserve or contracting obligations in its name.

(3) Declaring accomplices to the crime of rebellion all those that loan their help or serve under the regime rising from the parties of force and blood, committed on the night of 5th and 6th of July.

The present decree, together with the acts of this session, will be forwarded in copy to the commissioner of the Republic, who will present them to the Supreme Government and to the American and English consuls resident in Bluefields.

DENIS H. THOMAS.  
JESÚS MONTEREY.  
NARCISO BARBERENÓ.  
OSCAR LACAYO.  
H. G. HIGLEY.

AUBERT, *Secretary*.

This is a true translation.

S. C. BRAIDA,  
*United States Consul*.

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[Inclosure 3.]

DECREE.

Rigoberto Cabezas, inspector-general of the Atlantic Coast and governor for the district of Siquia, considering that the public peace in Bluefields has been disturbed by an armed rebellion, that it is the duty of this authority to anticipate the best way for the maintenance of order, and for the security of my associates, and by use of the faculties of which I am invested—

(1) I declare the district of Siquia in a state of siege.

(2) That all common crimes or faults during the time martial law is in force shall be judged by a military court.

Given in Rama this 12th day of July, 1894.

Communicate.

R. CABEZAS.

This is a true translation.

S. C. BRAIDA,  
*United States Consul*.

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[Inclosure 4.]

*Chief Clarence to Mr. Seat.*

BLUEFIELDS, July 6, 1894.

SIR: I have the honor to inform you, and for the information of your Government, that by request of the people I have assumed my right of office as hereditary chief of the Mosquito Indians and president of the council, and that in order to preserve peace and safety to life and property and to conciliate the people I have appointed the following gentle-

men, who were duly sworn into office, to fill the vacancies that have occurred in the executive council:

Charles Lobner, American.

Henry Brown, English.

Sam Lampton, American.

Jacob Brownregg, English.

I have, etc.,

ROBERT HENRY CLARENCE,  
*Chief and President.*

This is a true copy.

S. C. BRAIDA,  
*United States Consul.*

*Mr. Baker to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
*Managua, July 27, 1894. (Received August 14.)*

SIR: My latest information from Bluefields by mail is of the date of July 7. I have nothing direct by wire. You are probably aware that there is no telegraph line from here to Bluefields; or, for that matter, none to Bluefields from any quarter. It happens that three or four weeks sometimes pass without any mail from Bluefields to Grey Town, and from Grey Town to this city the wire is on rotten poles; it runs for many miles through a forest so dense as to defy the rays of the sun, and is usually "down" when anyone else than the Government desires its use.

Consul Braida makes most serious complaint of his inability to telegraph to me, as well as the interference with his mails between Bluefields and Grey Town.

Minister Madriz leaves here to-day for Bluefields, as special commissioner, and through his courtesy I send letters to Consul Braida, Commander O'Neil of the U. S. S. *Marblehead*, and Consular Agent B. B. Seat, esq.

I herewith inclose a copy of the latter, and they were all of similar tenor.

I had a talk with Mr. Madriz this morning, and I find his mind filled with the idea that the Americans are at the bottom of the trouble at Bluefields, and his assistant secretary, Roman Mayorga Rivas, esq., more frank than discreet, announced the purpose of the Government to "take down 1,000 troops and 4 cannon and butcher all the Americans in that territory, if necessary to establish and maintain Nicaraguan rule there."

It has been developed that 1,300 to 1,500 soldiers will go down from here, many have already gone, and the army of Honduras has been drawn upon besides. Great efforts have been made to create enthusiasm among the soldiers who are going to the front. This morning's "El 93," contains an address from the President to the army, and an editorial, both intended to contribute to the above purpose. I send you inclosed a copy of the paper. As the mail is just closing for Corinto, I will not have time to make the translations.

I have had a little backset in my sickness, and have been in bed again this week. This has been the sickliest season known in Nicaragua for many years. About 20 per cent of the foreigners in this vicinity, I am informed, have died. The fever has been a malignant one, with

many of the characteristics of the yellow fever. It seems to have been brought here from Panama. Whether the President shall fill this consulate, which has now been vacant over a year, or not, I will be compelled to get away from here either temporarily or permanently. I must have a change to live, or a change will come to me in death.

I have, etc.,

LEWIS BAKER.

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[Inclosure 1.]

*Mr. Baker to Mr. Seat.*

LEGATION OF THE UNITED STATES,  
Managua, July 26, 1894.

SIR: I thank you for your report of the mob by the negro and Indian residents of Bluefields on the night of July 5, arising out of the repeated refusal of the Nicaraguan authorities to pay the policemen in their employ.

I most sincerely regret this occurrence, but I am gratified to be assured, as I am by you, that no American has been mixed up in this disgraceful affair.

His Honor Minister Madriz is returning to Bluefields as special commissioner of the Government of Nicaragua, and he has kindly consented to bring this to you. Before giving it to him I permitted him to know the contents of your report to me; I also presented to him and to the President the complaints of the Rama parties. At the time Mr. Madriz was down last April and May I understood that he had given orders that ships should be permitted to load and unload fruit during all hours, day and night, as is done in all towns and cities of the United States, and I feel quite sure that the act of which you complain will meet his prompt disapproval.

Minister Madriz was at Bluefields at the time of my visit in April and May, and I found him to be conservative, clear in his ideas, and disposed to be just. Upon his careful report of the condition of public sentiment down there, the President responded promptly to such reasonable requests as I thought it proper to make of him for the protection of American interests in the reserve.

For this reason alone, even though there was no other, it is a source of keen regret to me that this unholy mob broke out.

The Government of the United States concedes, as you know, the sovereignty of Nicaragua over the Mosquito territory. Only England has any treaty which limits the full and free action of Nicaragua over Mosquitia. As Americans we concede to Nicaragua all the powers of a sovereign; and our position is that of guests in the house of a neighbor. We came into this house, and we acquired certain rights of property, and went into business on certain conditions and under certain guaranties. Our business, as I said, is to act in good faith as guests, as neutrals; their business is to protect us in all our rights. And I feel reasonably certain that if we remain true to our proper position the Nicaraguan Government will finally adjust in an equitable manner all our just claims.

It is pleasing to me to learn, as I do through others, that during the recent troubles in Bluefields you discouraged every species of disorder and threw your influence on the side of peace and order. I can not too highly commend all Americans who took the same conservative and proper course.

I am, etc.,

LEWIS BAKER.



[Inclosure 2.]

*Extract from "El 93," July 27, 1894.*

We take pleasure in inserting the proclamation which has been addressed by the General President to the expeditionary army that is about to go to Bluefields.

It is as follows:

*Soldiers of the expeditionary force of the Atlantic Coast:*

Our country again requires your services to uphold its integrity and its sovereign rights. I have summoned you to march to our Atlantic coasts in order there to raise our flag to the height which is demanded by our national dignity.

To you, the upholders of our liberty and autonomy, I desire to communicate the reason of this summons.

On the 5th of the present month the negroes of Jamaica, having been badly advised by certain adventurers who desired to secure control of the wealth of those coasts, raised the cry of insurrection against the authorities of Nicaragua, taking advantage of a time when a few of your companions remained upholding order and giving them guarantees. The efforts of these Nicaraguan soldiers who had to do battle against a large number of those negroes were fruitless, some of them dying heroically in defending the dignity and honor of Nicaragua. It is for you to continue the work which those martyrs were unable to finish owing to their scanty numbers.

You have shown in the recent Honduran campaign how much you love your country, and how you punish the folly of those who dare to cast discredit upon our flag. It is just one year since you liberated all Nicaragua in the bloody battle of La Cuesta. I invoke those souvenirs which do you so much honor, and ask you to make known this time, with the same bravery and heroism, in the remote region of the Atlantic, what the Nicaraguan soldier can do when he fights for the honor of his country.

You will be led to those coasts by the experienced and valiant Generals Reyes, Balladases, Bone, and Uriarte. You know them well. With their skill and your valor victory is certain.

I urge you to observe the good behavior and the discipline of which you have given so many evidences.

You are going to a region where it is sought to make us appear as savages who do not know how to govern. I charge you to show by your honorable conduct and excellent demeanor how infamous is the slander which those negroes have concocted against us.

Before taking leave of you, I desire especially to commend to you the brave minister, Dr. José Madriz, who is to accompany you on this expedition. He goes in the name of the Government to impose our laws upon the rebels. He feels confidence in the success of his mission, because he relies upon soldiers who, like you, will execute his orders at the proper time.

I feel confident that I shall see you on your return crowned with laurels, and I know that if you are not sufficient to punish those insurgents, our entire army will go, with your commander in chief and friend at its head,

J. S. ZELAYA.

*Mr. Gresham to Mr. Baker.*

DEPARTMENT OF STATE,  
Washington, August 4, 1894.

SIR: I have received yours of the 14th ultimo, reporting the communication made to you by the minister for foreign affairs in regard to the uprising at Bluefields.

It is noted with interest and some surprise that the report of General Cabezas to Señor Madriz speaks of the rising as "led by a Hollander, Reuling," inasmuch as the chief of police of Bluefields is or recently was of the same name and nationality.

While the statements of Señor Madriz and those received here from the commander of the *Marblehead* agree in attributing the rising to the negroes, the alleged participation of the American residents of Bluefields is denied by our recent advices. According to Captain O'Neil but two or three citizens of the United States are implicated. Captain Seat reports that the American residents did not participate in the disturbance.

You will use your best efforts to prevent the punishment of peaceable Americans for the criminal acts of other alien sojourners in the reservation.

It is regretted that your illness and obstruction of communication precludes you from more fully and promptly reporting in regard to the alarming situation at Bluefields.

Our naval force at that point has been increased by the detail of the *Columbia*. This is believed to be adequate for the protection of legitimate and unoffending American interests there.

I am, etc.,

W. Q. GRESHAM.

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*Mr. Baker to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
Managua, August 8, 1894. (Received September 4.)

SIR: Your official dispatch No. 201, addressed to this legation, in which you inclose a translation of a communication addressed to me by Mr. Madriz, late special commissioner to Mosquito, is at hand, and its contents carefully noted.

I endeavored to state to you as clearly as I could the reasons which prompted me in suggesting to Mr. Madriz, on the 5th of May, the removal of the troops from Bluefields to the bluff as a conciliatory measure. There was no hint of a denial of the sovereign right of Nicaragua to place their troops in Bluefields.

Mr. Madriz having made the order, through Commissioner Lacayo, the troops having been removed under that order, while Mr. Madriz was still in Bluefields, and having, in violation of that order, been returned to Bluefields by Lacayo, I deemed it my duty to call Mr. Madriz's attention to this additional evidence of the contempt with which that official continued to treat his superior's orders.

It was this point only I sought to keep in his mind and yours (since you had already virtually, in your dispatch of May 23, asked Lacayo's removal); and this is why I did not, in illustrating this point, quote Mr. Madriz's explanation as to how he came to the conclusion to make the order referred to. There was never any question between him and me on that point.

I shall hereafter have all parts of all communications carefully translated and mailed to you.

I have, etc.,

LEWIS BAKER.

*Mr. Baker to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
*Managua, August 8, 1894. (Received September 4.)*

SIR: On the evening of August 2 Mr. Gustavo Guzman came to this legation bearing, as he informed me, a verbal message from the President, to the following effect:

First. That this Government had sent a large number of troops to San Juan del Norte, where they had just arrived, on their way to Bluefields.

Second. That this Government had chartered the steamboat *Yulu*, a boat owned by the Emory Company of Boston, flying the United States flag, to transport these troops from San Juan del Norte to Bluefields.

Third. That now the captain and crew of the *Yulu*, all Americans, refuse to carry the soldiers, for the reason that Commander O'Neil, of the U. S. S. *Marblehead*, had issued a proclamation forbidding vessels under the flag of the United States from "carrying bodies of armed men or military supplies" for either "party" to the controversy in the Mosquito territory.

Fourth. The President, therefore, requested that I, as United States minister, issue an order to the captain and crew of the steamer *Yulu*, assuring them that they run no risk in disobeying the warning of Commander O'Neil.

I could not believe it to be my duty to comply with this request; but, at the suggestion of Mr. Guzman, I gave him the accompanying telegram, marked Inclosure No. 1, which he had liberty to send if he so desired. Inclosure No. 2 is a copy of the proclamation of Commander O'Neil referred to.

I have, etc.,

LEWIS BAKER.

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[Inclosure.]

*Mr. Baker to Commander O'Neil.*

LEGATION OF THE UNITED STATES,  
NICARAGUA, COSTA RICA, AND SALVADOR,  
*Managua, August 2, 1894.*

Commander O'NEIL,

*U. S. S. Marblehead, Bluefields:*

The Nicaraguan Government had chartered, as I learn, the steamer *Yulu*, belonging to a company of Americans, to carry troops from Grey Town to Bluefields. The President desires to know if this is contrary to your order commanding the neutrality of American citizens. Please answer in care of Consul Braida, Grey Town.

LEWIS BAKER,  
*United States Minister.*

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[Inclosure.]

*Order of Commander O'Neil.*

U. S. S. MARBLEHEAD,  
*Off Bluefields, Nicaragua, July 14, 1894.*

*To the owners, agents, and captains of vessels under the flag of the United States trading in these waters:*

In view of the fact that there is in effect a revolution going on in the Mosquito Reserve between the chief of the said reserve and his fol-



lowers and the provisional council, which in a measure through its President represents, or assumes to represent, the Government of Nicaragua, these parties being in a hostile attitude to each other, and the former being at present in possession at Bluefields, you are hereby cautioned and counseled not to interfere with nor take part in the affairs of either faction by permitting vessels under your charge to engage in any military operations, that is, not to carry bodies of armed men or military supplies, knowing them to be such, for either party, nor to assist in any hostile demonstration; and should either party attempt to coerce you to do so, or interfere with you in the peaceful pursuance of your legitimate business, you are advised to utter a vigorous protest, to show this notice, and to communicate the facts of the case to me.

CHARLES O'NEIL,  
Commander, United States Navy.

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*Mr. Bayard to Mr. Gresham.*

EMBASSY OF THE UNITED STATES,  
London, August 10, 1894. (Received August 20.)

SIR: To-day, in a personal interview at the foreign office with Lord Kimberley, his lordship, referring to the presence of the two armed ships of the United States and Great Britain at Bluefields, said there would be no difficulty in their keeping order, and he deprecated very positively the use of the name of the Mosquito Indians as a shield under which foreign residents sought to wage war in opposition to Nicaragua, and said that the presence of the British vessel and armed forces had no other object or purpose than to protect the lives and property of British residents during a period of lawlessness and strife, and that the only desire of his Government beyond that was to induce the Nicaraguans to treat the Indians with forbearance and moderation, and not shoot them down, as they were very apt to do.

I took the opportunity to repeat what I had stated to his lordship on a former occasion—that the United States were wholly opposed to the employment of the fiction of a Mosquito government to organize an opposition to the Government of Nicaragua, which had no connection whatever with the customs and domestic usages of the Mosquito Indians, and that American citizens would not be allowed to set up any such government under any pretext.

I can but confirm, and need not here repeat, the views heretofore expressed to you in my dispatch of the 28th of May last, in relation to the attitude and purposes of Great Britain toward Nicaragua and the Mosquito Reservation.

What Lord John Russell wrote to Mr. Crampton in 1853 about Mosquito Indians who, instead of governing their own tribe according to their own laws and customs, were lending their name and title to a medley of Europeans and Americans to trade at Grey Town and Bluefields, not according to Indian usages and customs, but wholly in opposition to such usages, was true when his lordship so expressed it, and in the passage of events has been emphasized, and is to-day absolutely undeniable.

I am quite clear, however, that the easiest and most complete and satisfactory solution of any difficulty lies wholly in the power of the rulers of Nicaragua, who can, by the exercise of a wise and humane

policy of treatment of the Indians of Mosquito, deprive the British Government of all possible pretext to interfere in any way with the practical and unqualified exercise of sovereignty by Nicaragua over the entire region.

Satisfied, as Nicaragua must be, that the United States have not the slightest desire to impair its full control over the Mosquito coast and will discourage all attempts from any quarter to impose conditions upon Nicaragua in the conduct of her domestic affairs—asking only that the legitimate rights of American residents may receive the just protection of equal laws—it is wholly within her power to give the treaty of Managua its full force and intent, and secure an unquestioned and unqualified sovereignty for Nicaragua over the whole territory by establishing such a condition of law and order that no pretext for interference can be set up in any quarter.

Such a course will insure to capital that safety that is essential to its voluntary presence and employment and promote the great work of joining the waters of the two great oceans, together with the infinite commerce that would necessarily stream across Nicaraguan territory, bringing her inhabitants into the closest and most profitable relations with the world's wealth and higher civilization.

The obvious wisdom of such a course is indubitable, for peace at home must be accompanied with prosperity, and a final abandonment of all attempts to subject Nicaragua to an interpretation of the Managua treaty by a foreign imperial Government (Austria), to which she most imprudently assented in 1879, without notification or consultation with the United States.

It is not the treaty of Managua, but the Austrian construction of that convention, which has given Great Britain the only possible ground of argument in favor of an interference, which is inconsistent with the sovereignty of Nicaragua over the Mosquito coast, and would involve in its acceptance an infraction, in letter and in spirit, of the stipulations of Great Britain with the United States in the Clayton-Bulwer treaty.

Undefined obligations are always the most embarrassing, and the trace of responsibility for the personal safety of a feeble remnant of an inferior and deteriorating race who were once under her protection in some degree survives, and creates hesitation on the part of Great Britain formally and finally to abandon her obligation to interfere when her former protégés are threatened with gross injustice and oppression.

This is made apparent by Lord Salisbury's note to Mr. Edwardes, March 7, 1889, and has been accentuated in Lord Kimberley's conversations with me. Nor can there be any doubt that the condition of affairs in Nicaragua and in the Mosquito Reservation has undergone an entire transformation within the last thirty-four years, and is now more than ever rapidly progressing into a state in which no feature existing in 1859 can be traced.

I am fully persuaded that, with good temper and judicious and just treatment of her citizens inhabiting the Mosquito region, Nicaragua will be wholly undisturbed by interference by the United States or Great Britain, and assuredly by this time her rulers and people should be satisfied with the disinterestedness and friendly good faith which actuates the Government of the United States in all their relations with Nicaragua.

I am, etc.,

T. F. BAYARD.



*Mr. Baker to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
*Managua, August 11, 1894. (Received September 4.)*

SIR: On the 29th ultimo, after our last mail for the States had departed, I received the letter from Minister Madriz, herein marked Inclosure No. 2. Inclosure No. 1 is my letter, to which he replies. The letter from Mr. Seat, referred to in this correspondence, was sent to you by Consul Braida, and my reply to that letter went to you in my No. 344.

I am, etc.,

LEWIS BAKER.

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[Inclosure 1.]

*Mr. Baker to Mr. Madriz.*

LEGATION OF THE UNITED STATES,  
NICARAGUA, COSTA RICA, AND SALVADOR,  
*Managua, July 26, 1894.*

MR. MINISTER: I submit to you and through you to His Excellency the President, for your and his information, two official reports received by me from Bluefields. Please observe that they are to be returned to me.

(1) In the fourteenth paragraph of Commander O'Neil's report you will not fail to observe the following:

But I must confess that I find that the sympathies of nearly all the foreigners are with the Mosquito government.

The reason (I think you will agree with me) is plain. Nicaragua has failed to give those people a more satisfactory government than the old régime did. In other words, Nicaraguan officials sent to rule those people have not, by their official acts, succeeded in gaining the confidence of the foreign citizens of the reserve. Confidence inspires loyalty. All those people can be made your warm friends and defenders if a just and conciliatory course is pursued by you.

(2) I call your attention to the report of B. B. Seat, esq., United States consular agent at Bluefields, made to Consul Braida. This report gives internal evidence of its unvarnished truthfulness. On page 8 of this report, Mr. Seat gives it as his opinion that no American of any standing, and perhaps no one, had anything to do with the late uprising.

(3) I beg to call your excellency's attention to Inclosure No. 3. Such arbitrary, unjust, and utterly senseless action as the one here reported will not go a long way toward creating a public sentiment among the foreigners residing in the Mosquito Reserve for the Supreme Government of Nicaragua.

(4) A Mrs. Anderson, whose husband resides near Grey Town, called upon me yesterday, and stated that an attempt was made at Grey Town to collect a large amount of duties upon their household goods, effects, etc., contrary to law. But as she said she was going directly to the proper minister about the matter, I presume she had no difficulty in having the matter adjusted in a just manner.

(5) My fourth inclosure is a telegram from Henry Palazio, esq., in reference to the mate of the steamship *San José*. If there is anything either you or I can do to get this matter settled in a just way, kindly let me know.



I beg your careful and thoughtful attention to all of the inclosures; and I will ask you to preserve and return them all to me.

With sentiments of high esteem, I have the honor to subscribe myself, your obedient servant,

LEWIS BAKER.

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[Inclosure 2.—Translation.]

*Mr. Madriz to Mr. Baker.*

NATIONAL PALACE,  
Managua, July 28, 1894.

MR. MINISTER: I have read to the President your excellency's valuable communication of yesterday, and its contents have been well noted.

Your excellency is acquainted with this Government's policy toward the Mosquito Reservation. It is interested in the peace and prosperity of that region by means of a system of liberty and justice. If unusual circumstances have prevented the fulfillment of its desires, the soundness of its principles remains beyond doubt.

I fully appreciate the fact that the foreigners, and particularly the Jamaicans, are more in sympathy with the old régime. It would be absurd to suppose otherwise. The reservation has been unconditionally under their control, and therefore the intervention of an authority which watches and corrects irregularities is not at all pleasing to them.

I have been pained to observe the harshness with which Vice-Consul Seat speaks of Nicaragua; but it is not the first time he has done so. During his recent visit to the United States the American press echoed his sentiments, which were highly offensive to the honor of this people. Such a thing is not becoming in one of his position, and I should be much pained if some day an official communication of that nature should pass between us, because I should be unwillingly compelled to call Mr. Seat to the path of decorum and procedure according to the practices of international law.

I especially call your excellency's attention to the closing words of Mr. Seat's letter to Consul Braida: "If an attack were made now it would be a very different thing from when Lacayo arrived here some months ago." These words contain a threat and show that Mr. Seat is in sympathy with the rebellion. They remain from now on as a precedent for an investigation, which I shall make upon my arrival at Bluefields. I do not consider this latter as difficult as Mr. Seat thinks.

As to that relating to the detention of steamers, I have to say that as there is a custom-house at Rama, the entering or leaving the port at night is necessarily prohibited for the protection of the fiscal interests. If this is a detriment to private interests, much greater damage would be caused to the Government under a contrary regulation, because it would expose the port to smuggling.

Moreover, according to the laws of the reservation, ships carrying articles of commerce to any point therein are obliged to stop at Bluefields and have their cargo examined and pay the customs dues. Why does not Mr. Seat complain about this?

Notwithstanding the above, the Government knows that General Cabezas has reestablished, as heretofore, traffic at all hours.

It is evident from Mr. Seat's confession that Americans have taken part in the recent disturbances.

The policy which the Government intends to pursue in the Bluefields affair will be strictly legal, but dignified and firm. It will make peace if the offenders submit; but it can not overlook the spilling of blood on the bluff and at Corn Island.

The above remarks do not refer to your excellency, in whom I am pleased to recognize a frank and well-intentioned conduct. God grant that your excellency may be able to change Vice-Consul Seat's mind, and to convince the Americans that the Government of Nicaragua is not nor can be hostile to their interests.

As to the affair of Mrs. Anderson, the governor intendente of San Juan del Norte has been ordered not to collect the duties which, undoubtedly through error, had been imposed.

The case of the piloto (mate) of the *San José* is being tried according to law, and in this connection I must inform your excellency that the Government was pained to see the refusal of the captain of the steamer to deliver the offender, knowing that the ship and all persons aboard were subject to the jurisdiction of the port authority. A warning of this kind to the captains may, in the future, avoid illegal pretensions on their part.

I send a copy of this communication to our representative in Washington.

With all respect, I subscribe myself, your obedient servant,

JOSÉ MADRIZ.

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*Mr. Gresham to Mr. Baker.*

[Telegram.]

WASHINGTON, August 16, 1894.

Your dispatch (344) received. Full advices from naval commanders show that very few American citizens were concerned in the recent movement at Bluefields, and none of good repute.

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*Mr. Gresham to Mr. Guzman.*

DEPARTMENT OF STATE,

Washington, August 18, 1894.

SIR: In a recent dispatch the United States minister at Managua reports a conversation had with the minister of foreign relations, in which Señor Madriz seemed to be imbued with the idea that citizens of the United States were at the bottom of the trouble at Bluefields; and Mr. Baker adds that the assistant secretary, Señor Roman Mayorga Rivas, "announced the purpose of the Government to take down 1,000 troops and four cannon and butcher all the Americans in that territory if necessary to establish and maintain Nicaraguan rule there."

In my frequent conferences with you concerning the state of things in the Mosquito Reservation, I have had occasion to inform you that the advices received by this Government show that the citizens of the United States in Bluefields and vicinity, acting under the wise counsel of our diplomatic, consular, and naval representatives in that quarter, have, as a class, maintained an attitude of neutrality and submission to the authorities. These advices are repeated and confirmed by the



latest reports of the United States naval commanders in Nicaraguan waters, which make it clear that but a few, perhaps three, Americans at Bluefields took part in the recent uprising in behalf of the so-called Indian government, and that these were men of little or no standing in the community.

The pain the President feels on learning of the prepossessions of the minister of foreign affairs is allayed by the belief that on his present visit to the reservation as the authoritative agent of his Government, the true position of the great mass of the Americans resident there can not fail to be apparent to him, and that the unjust impression he seems to have with regard to them will be speedily dispelled.

I can not, of course, suppose that the extraordinary utterances attributed to the assistant secretary of foreign affairs represent the sentiments of your Government, which has of late had too abundant evidence of the good will of the United States toward Nicaragua and too certain proof of our purpose to recognize and respect the sovereign rights of the Republic over all its territory, to allow of its harboring so unfriendly and biased a view as Mr. Mayorga Rivas appears to hold.

The naval force of the United States at Bluefields is charged with the duty of protecting American citizens there in the peaceable enjoyment of their legitimate rights of person and property. The commanding officers will doubtless counsel their absolute neutrality in the present deplorable state of affairs and due regard for the paramount sovereignty of Nicaragua over that region.

Accept, etc.,

W. Q. GRESHAM.

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*Mr. Guzman to Mr. Gresham.*

[Translation.]

LEGATION OF THE REPUBLIC OF NICARAGUA,  
*Washington, August 18, 1894.*

SIR: I have had the honor to receive your excellency's appreciable communication of to-day's date, the original of which I am about to send to my Government for its consideration.

The Nicaraguan authorities in Mosquitia informed my Government that several American citizens had taken part in the seditious movement which lately occurred in the city of Bluefields, and it is probable that this is what the minister of foreign relations referred to in his conversation with the honorable Mr. Baker. Dr. Madriz is thoroughly acquainted with the affairs of the reserve, since he has studied them on the very theater of events, and being, as he is, an intelligent, upright, and judicious observer, I am sure that he will know how to estimate things at their just worth.

As for the expressions uttered, as Mr. Baker assures you, by the sub-secretary of foreign affairs of Nicaragua, Señor Don Roman Mayorga Rivas, I can do no less than believe that there has been in this incident some misunderstanding, since it appears to me from every point of view unlikely that an official of the rank and responsibility of Señor Mayorga should have expressed himself in such wise, the more so knowing the sentiments which animate the Government of Nicaragua not only toward the American element of Mosquitia in general, but also with respect to those citizens of the United States who unfortunately took active part in the rebellion. I have already had the honor to bring to your excellency's knowledge the reply which the President of



Nicaragua made to the cablegram sent to him by Minister Barrios and myself on the 15th instant. Therein are palpably evidenced the friendly sentiments wherewith General Zelaya is animated with respect to the Government and people of the United States, such being a natural consequence of the repeated proofs of friendship and sympathy which Nicaragua has received at all times from this great nation.

As the representative of Nicaragua in this country, I can assure your excellency that the words attributed to Señor Mayorga Rivas do not in any manner interpret the feelings of my Government relative to the American citizens residing in Mosquitia, since, far from the slightest prepossession against them existing, they have ever been regarded as an element useful to the development of that region, and have been treated with the greatest consideration, being offered without reserve the ample and proverbial hospitality which distinguishes the Nicaraguan people.

I would be grateful to your excellency if you would be pleased to bring what I have stated to the high knowledge of His Excellency the President of the United States, and I have, etc.,

H. GUZMAN.

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*Mr. Gresham to Mr. Baker.*

DEPARTMENT OF STATE,  
Washington, August 21, 1894.

SIR: I have to acknowledge the receipt of your dispatch of the 24th ultimo, concerning the recent disturbances in the Mosquito Reservation.

In view of the important and serious statements in your dispatch, I at once made it the basis of a note to Dr. Guzman. I now inclose a copy of the correspondence for the information and files of your legation, including the reply of Dr. Guzman, who believes that there must have been some misunderstanding as to the remarks of Señor Mayorga Rivas, to which you refer as objectionable, and which do not at any rate interpret the sentiment of the Nicaraguan Government toward American residents in the reservation.

I am, etc.,

W. Q. GRESHAM.

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*Mr. Gresham to Mr. Bayard.*

DEPARTMENT OF STATE,  
Washington, August 22, 1894.

SIR: Your dispatch of the 10th instant, concerning the British position in respect to the Mosquito Reservation, has been received.

The declarations of Lord Kimberley touching the instructions under which the British naval and consular representatives are acting in that quarter, agree with the statements made by Captain Stewart of the *Magicienne* and by Vice-Consul Hatch to our naval commander. This wise policy, if continued, will, the President believes, promote a settlement of the troubles not inconsistent with the sovereign rights of Nicaragua.

Your comments upon the situation show that the reliance of the Department upon your intimate knowledge of the question has not been misplaced. You rightly interpret the purpose of this Government

to confine its protection of American citizens and enterprises in that quarter to such interests as may be legitimately established there.

As you have already been advised, a Nicaraguan envoy is now on his way to London to confer with Lord Kimberley in relation to the Mosquito troubles. Should Señor Barrios seek your confidence in this regard your good judgment will determine whether or not he should see your No. 270.

I am, etc.,

W. Q. GRESHAM.

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*Mr. Braida to Mr. Uhl.*

CONSULATE OF THE UNITED STATES,  
*San Juan del Norte, August 23, 1894.*

(Received September 5, 1894.)

SIR: I have the honor to transmit herewith copies of the correspondence in behalf of the release of the American citizens, Mr. J. S. Lampton and Capt. George B. Wiltbank, in order to leave this country, as offered to them at Bluefields by General Porto Carrero, in the name of Minister Madriz.

Also the answer received from General-in-Chief Don P. Reyes. I beg also to report that Her Majesty's ship *Mohawk* arrived last night, 6 p. m., off Grey Town. Captain Stuart came immediately on shore and had an interview with General Reyes, visited the prisoners, and called on me. He sails back to Port Limon, expecting to find instructions concerning the offensive policy recently developed by the Nicaraguan officials against the British representatives. The Bluefields proconsul being arrested, and no navy officer accepted to perform the consular service, Dr. J. Johnstone, new appointed consul for Nicaragua, resident at San Juan del Norte, has also been declared to be ignored, and so there is de facto not one British consular representation along the Atlantic coast of Nicaragua. The fourteen prisoners will to-morrow be taken to Managua.

I have, etc.,

S. C. BRAIDA,  
*United States Consul.*

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[Inclosure 1.]

*Messrs. Lampton and Wiltbank to Mr. Braida.*

GREY TOWN, NICARAGUA, *August, 1894.*

SIR: On the 16th instant we, the undersigned, were arrested in the town of Bluefields by order of Dr. Madriz, special commissioner to the Mosquito Reserve, and informed that we had to proceed to Managua to answer for our conduct in the reserve, the particulars of which the officer in charge declined to give, as it was the decree of Dr. Madriz that we had to be taken to Managua or leave the country. We stated unless we could be informed of charges against us, and not knowing any reasons for such arbitrary measures, and being a different language and laws quite contrary to those under which we came into the country, namely, the Mosquito Reserve, under the treaty of Managua, English-speaking community, English laws, we elected to leave the country than to proceed to Managua. We were informed that we had to proceed to Grey Town. We have arrived here, and now ask that

you demand from the general in command our release, in accordance with the condition made by Dr. Madriz, through his officer, Gen. Porto Carrero.

We are, etc.,

J. S. LAMPTON, *Planter.*

GEO. B. WILTBANK, *Planter.*

This is a true copy.

[SEAL.]

S. C. BRAIDA,  
*United States Consul.*

[Inclosure 2.]

*Mr. Braida to General Reyes.*

UNITED STATES CONSULATE,  
*San Juan del Norte, August 22, 1894.*

SIR: I received last night a communication from the two American citizens, Mr. J. S. Lampton and Mr. George B. Wiltbank, arrested at Bluefields and brought here in your charge. I beg to transmit you herewith a copy of the same, and have the honor to demand the release of the two gentlemen on the condition granted by his excellency, Minister Don José Madriz—that they may leave this country. I add to this request my exequatur, proving that I am the authorized consul of the United States for San Juan del Norte and dependencies thereof, expecting that you will be so good as to return it to me after having examined it.

I have, etc.,

[SEAL.]

S. C. BRAIDA,  
*United States Consul.*

[Inclosure 3.—Translation.]

*General Reyes to Mr. Braida.*

*SAN JUAN DEL NORTE, August 22, 1894.*

SIR: I have received your very attentive communication of this date, together with the exposition, a copy of which you inclose the same, which has been brought to your knowledge by two American citizens. I am very sorry not to be able to accede to your desire, for it is my duty to comply strictly with the written instructions placed in my hands by Minister José Madriz, the representative of the executive power on the Atlantic Coast. He has not consigned in these instructions the faculty and power to give them, the political prisoners, liberty to leave the country, who came guarded by the forces which I command.

I have, etc.,

P. REYES.

*Mr. Baker to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
*Managua, August 27, 1894. (Received September 13.)*

SIR: Your dispatch of the 4th instant, relative to the recent disturbances at Bluefields, has been received and its contents noted.

It has been a source of deep regret to me that illness, coupled with the abominable mail and telegraphic service, have prevented my more



promptly transmitting to the Department full advices as to the affairs transpiring in Mosquitia, but, as I have just learned through Consul S. C. Braida, of San Juan del Norte, that several American citizens were arrested at Bluefields, under orders from Special Commissioner Madriz, and are now being transported to this capital, I will, no doubt, be able to render more valuable service here than if I were in Bluefields.

Through the medium of conversations with the President of Nicaragua I think that I have been of some use in this affair, while the powerful naval force of the United States now on the Mosquito coast is much more able to enforce any demands that should be made than I am.

Upon the arrival of the said prisoners I shall immediately report to the Department full particulars as to their cases.

I have, etc.,

LEWIS BAKER.

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*Mr. Baker to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
Managua, August 28, 1894. (Received September 13.)

SIR: On the morning of the 16th of August two citizens of the United States and twelve subjects of Great Britain, all residents of Bluefields, Nicaragua, were placed under arrest by order of Commissioner Madriz and sent immediately to Managua, without any opportunity to arrange any of their business or family affairs or to make any other preparations for their enforced journey or their comfort. They arrived at this place last evening, after twelve days of most disagreeable travel. They were in charge of General Reyes. I promptly called upon the General and upon the prisoners after their arrival. At my request the General kindly permitted me to take the two Americans to my house for the evening. The names of these gentlemen are J. S. Lampton and George B. Wiltbank. No charges have been made against any of the persons under arrest.

Of the two Americans, I believe it can truthfully be said that they have neither of them been unfriendly, by word or deed, to the Government of Nicaragua. Mr. Wiltbank accepted the position of magistrate to act during the time that the functions of the Nicaraguan Government were suspended at Bluefields in July last, and Mr. Lampton acted as a member of the council formed during the same interregnum. Both of these men were urged to accept these respective positions by the business men of the place, and their acceptance met the approval of Commander O'Neil, of the U. S. S. *Marblehead*. During their incumbency of these positions they did not, either officially or unofficially, so they affirm, perform any act detrimental to the sovereignty or dignity of the supreme Government of Nicaragua, their official acts being confined to a preservation of the peace in the town and the promotion of the local business interests.

Having had a full consultation with these men, I will see the President in their behalf, at his convenience, to-day. As our mail for New York closes here this morning at 8.30, I hasten to get this in the post-office.

The names of the British subjects here under arrest follow:

E. D. Hatch, Her Britannic Majesty's vice-consul at Bluefields; W. H. Brown, Captain Brownrigg, H. C. Ingram, John Taylor, M. Taylor, J. O. Thomas, W. Glover, S. Hodgson, George Hodgson, J. W. Cuthbert, attorney-general and chief adviser of the Mosquito chief, and Charles Patterson, the late vice-president of the Mosquito government.

It will be observed that in the list of prisoners the names of the vice-president and of the attorney-general and chief adviser of Chief Clarence appear. Chief Clarence was taken by the British man-of-war to Jamaica for preservation.

I am, etc.,

LEWIS BAKER.

P. S.—As I was about to mail the above my morning papers arrived announcing that Messrs. Lampton and Wiltbank are to be expelled from the country. Thinking that they might be sent this morning on the ship now due, I promptly addressed the inclosed statement and protest to the President.

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[Inclosure.]

*Mr. Baker to President Zelaya.*

LEGATION OF THE UNITED STATES,  
NICARAGUA, COSTA RICA, AND SALVADOR,  
Managua, August 28, 1894.

MR. PRESIDENT: I observe it stated in a morning paper that Messrs. J. S. Lampton and George B. Wiltbank, together with several other residents of Bluefields, were arrested and brought to this city as prisoners for active participation in the outbreak in the Mosquito Reserve in July. It is also stated that your excellency has decreed that these two men, with others, are to be exiled from the country. Messrs. Lampton and Wiltbank are citizens of the United States. They deny that they participated in any way in the movement to overthrow the supremacy of Nicaragua in July last, or at any other time. They claim that their every movement during the time was intended to restore peace and preserve the business interests of the country.

But, Mr. President, should they be shown to be mistaken in this, the constitution of Nicaragua, if I read it correctly, guarantees to them a reasonable time in which to wind up their business affairs.

If the announcement that these men are to be expelled from the country is correct, and if it is the intention to send them at once in the face of this guarantee, I must, in the name of the Government of the United States, whose citizens they are, enter my respectful but most earnest protest. I ask that they be given a reasonable time in which to dispose of their business interests.

With great respect, etc.,

LEWIS BAKER.

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*Mr. Gresham to Mr. Baker.*

[Telegram.]

WASHINGTON, August 29, 1894.

The President is pained to learn, through reports of naval commander, that American citizens at Bluefields who, on invitation, visited the commissioner, were arbitrarily seized, denied permission to see families and friends, and forcibly taken to Managua to answer unknown charges, and that protests against this lawless proceeding have been ignored. Such arrest, besides violating treaty of 1887, is an ungenerous response to the friendly disposition recently manifested by this Government



respecting the sovereignty of Nicaragua over the Mosquito territory. You will demand immediate open trial of the accused, with all guarantees of defense secured by treaty, and in default thereof their release.

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*Mr. Baker to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
*Managua, August 30, 1894.* (Received September 14.)

SIR: I received your cable and I at once sent the inclosed "demand" to the Nicaraguan Government.

I may here remark that Messrs. Lampton and Wiltbank, the two Americans who were brought to Managua, and afterwards sent out of the country without trial, were not aware that the United States naval commander had made any protest against their arbitrary arrest, treatment, and expulsion. The commander sent no word of information to me, and I was left with the inference that our commander knew that these men were guilty of fomenting trouble and should be sent out of the country. This seeming action, or want of action, on the part of the commander made it the more difficult for me to know how much I should demand.

Besides, having in view the fact that I made a "demand" in the Argiuello case in the name of the United States, which was virtually ignored by this Government and apparently dropped by ours, I tried in this case to be especially judicious and to not protest too vigorously.

I have, etc.,

LEWIS BAKER.

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[Inclosure.]

*Mr. Baker to Minister of Foreign Affairs.*

LEGATION OF THE UNITED STATES,  
 NICARAGUA, COSTA RICA, AND SALVADOR,  
*Managua, August 30, 1894.*

MR. MINISTER: On the 28th instant I had the unpleasant duty of presenting, in the name of the Government of the United States, a firm protest against the proceedings taken by the Government of Nicaragua in the arbitrary arrest and expulsion from this country, without trial and without previous notice, of two American citizens who are engaged in business in Bluefields. Your answer, received on the afternoon of the same day, asserted that these men were guilty of high crimes against this Government. If this is true it is susceptible of proof. In my note I appealed to your own constitution for their protection; and I now respectfully represent that your action in hastily expelling these men is in direct violation of your treaty with the United States of 1867.

I am instructed by the President of the United States to say to you that he "is pained to learn that American citizens at Bluefields, who, on invitation, visited the commissioner, were arbitrarily seized, denied permission to see their families and friends, and forcibly taken to Managua to answer unknown charges, and that protests of our naval representative against this unlawful proceeding have been ignored. Such arrest, besides violating the treaty of 1867, is an ungenerous response to the friendly disposition recently manifested by this Govern-



ment respecting the sovereignty of Nicaragua over the Mosquito territory."

And the President adds in his instruction to me: "You will demand immediate, open trial of the accused, with all guarantees of defense secured by treaty, and in default thereof, their prompt release."

I am, etc.,

LEWIS BAKER.

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*Mr. Braida to Mr. Uhl.*

CONSULATE OF THE UNITED STATES,  
*San Juan del Norte, August 30, 1894. (Received September 25.)*

SIR: I beg to transmit herewith a letter just received from Capt. B. B. Seat, United States consular agent at Bluefields, addressed to me, in order to contradict false representations, most inopportune at the present moment and injurious to our citizens. I also include copy of a report of Mr. Seat to Capt. Commander G. W. Sumner, of the U. S. S. *Columbia*, dated August 15.

Her Britannic Majesty's ship *Mohawk* arrived off Grey Town this morning, coming from Port Limon. Mr. H. F. Bingham, the former consul, came ashore, when the man-of-war left in the direction of Bluefields, 10 a. m.

I have, etc.,

S. C. BRAIDA.

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[Inclosure 1.]

*Mr. Seat to Mr. Braida.*

BLUEFIELDS, NICARAGUA, *August 27, 1894.*

MY DEAR SIR: I have just now read an article published in the Times-Democrat of the 17th instant, purporting to give an account of the reoccupation of Bluefields by the Nicaraguans. I must say that this article fills me with amazement and disgust.

After making disrespectful allusions to Captain Sumner and Captain O'Neil, both of whom have been faithful and true in the discharge of their whole duty as American naval officers, this scurrilous article goes on to say that "a few American flags were torn down by their owners as a result of the action of these officers in leaving Americans to the mercy of the foreigners. Even the American consul there was ready to pull down his flag and give up his commission as an empty fraud which afforded no protection to his people."

All of which is false, and a slander not only upon the American naval officers and myself, but upon the better class of the Americans who reside in Bluefields. The name of the author is not given, but it is clear from the date of the article that it was written by a nonresident who has no interest here, and who would sneakingly give a stab to his countrymen to gratify perhaps imagined grievance of his own.

This article was dated Mobile, August 15, 1894, and, like many of its predecessors, was anonymous and apparently written with a reckless disregard of truth and calculated to create a sensation abroad. Ever since the local troubles began strangers have been dropping into this town and disappearing again in a few days, and then follow in the papers long articles distorting the facts and entailing injury upon the people they so wantonly calumniate.

I am surprised that a newspaper of any standing will open its columns to these unknown correspondents, who, for all they know, may have secret and dishonest motives in writing such articles. You will see the article referred to in the New Orleans Times-Democrat of the 17th, and is dated Mobile, August 15, 1894.

Yours, etc.,

B. B. SEAT,  
*United States Consular Agent.*

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[Inclosure 2.]

*Mr. Seat to Captain Sumner.*

DEAR CAPTAIN: In conformity with your request I have the honor to report herewith that the town of Bluefields has been unusually quiet during the past week. I am not officially informed of what has been transpiring at the headquarters of Minister Madriz since the recent occupation by the Nicaraguan forces.

I am told, however, that some sort of an investigation has been going on, apparently with the view of identifying American residents of Bluefields with the uprising on the nights of the 5th and 6th of July. According to reports some mercantile firms have been charged with selling arms and ammunition to the natives, but thus far they have not succeeded in fixing upon any of said firms any criminal intent in selling firearms to the natives. All the merchants are licensed to sell general merchandise, and under such license they have for a number of years been importing large quantities of firearms and selling same to miners, rubber cutters, and others who go into the jungles. If the law makes no special prohibition against the sale of firearms, no criminal intent is to be inferred from the fact of such sale.

I do not imagine that anyone would be adjudged guilty of an offense upon a mere ex parte hearing, or that a trial would be conducted secretly without giving the defendant an opportunity of being confronted with the witnesses against him and to make his defense either by himself or by his attorney. For these reasons I presume the present investigation is being conducted as a court of inquiry having powers, duties, aims, and purposes similar to those of our grand juries in the United States.

The man Juan Soto was before the magistrate Mougrio yesterday. I do not know if an investigation was made by Mougrio yesterday or not. I presume, however, that he has not completed such investigation, if he has commenced it at all. Mougrio stated yesterday that the main witness had gone up the river to Rama. I send you an affidavit made before me yesterday by a woman who lives here in Bluefields.

We have Nicaraguan soldiers with rifles and bayonets passing about through the streets, but they do not challenge anyone and seem to be very quiet and orderly. Martial law still obtains, and some of the merchants are considerably exercised over the fact, as the existence of martial law suspends the liability of insurance companies and thereby exposes the merchants to great loss in case of accident.

B. B. SEAT,  
*United States Consular Agent.*

P. S. I am just informed that Mougrio tried the case of Juan Soto to-day, and that he adjudged him guilty of a breach of the peace and sen-

tenced him to twenty-five days' imprisonment and requires a bond in the sum of \$100 to keep the peace for one year. In the meantime the Mexican one, Pedro Diaz, has been kept in close confinement under the operation of martial law since about the 6th instant without a trial.

Respectfully,

B. B. SEAT.

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*Mr. Baker to Mr. Gresham.*

[Telegram.]

MANAGUA, August 30, 1894.

Your cable has been received. I presented your demand promptly. The United States citizens have been already expelled from Nicaragua without charges or without trial. In spite of my protest Americans marked for arbitrary expulsion. Awaiting your instructions.

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*Mr. Baker to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
Managua, August 30, 1894. (Received September 14.)

SIR: In my dispatch of the date of August 28 I informed you of the probable expulsion from Nicaragua, without trial or opportunity to be heard and without time to arrange their business affairs, of two citizens of the United States, lately residents of Bluefields, viz, J. S. Lampton and George B. Wiltbank. I inclosed in that dispatch a copy of a protest which I hastily addressed to the President (as dictatorial powers had been conferred upon him, and the decree of the expulsion had been issued by him).

At 11 o'clock on the same morning the prisoners named in my dispatch were sent to Corinto and placed upon a ship the same evening. It was understood that they would be landed at Punta Arenas, Costa Rica. Their purpose, I understand, was to go from there to Port Limon, and later to the States. About two hours after the prisoners were sent away I received from the state department here the inclosed answer to my protest.

If Messrs. Lampton and Wiltbank were "chief promoters of the disturbances," and "disturbers" and "revolvers," as therein characterized, I have been misinformed. But if this was true, as charged, it was easily susceptible of proof; and proof rather than unsupported assertion would be more desirable.

I have, etc.,

LEWIS BAKER.

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[Inclosure.—Translation.]

*Mr. Matus to Mr. Baker.*

MINISTRY OF FOREIGN AFFAIRS OF NICARAGUA,  
National Palace, Managua, August 28, 1894.

SIR: The President of the Republic has honored me with the duty of answering your excellency's communication of this date, which has just been received.



The article contained in a newspaper of this morning is correct in saying that Messrs. J. S. Lampton, George B. Wiltbank, and other foreigners who resided in Bluefields will be expelled from the territory of the Republic it having resulted from the investigations that they were very much compromised in the crimes of rebellion and sedition perpetrated in the Mosquito Reserve during the first part of July last.

The President is pained at not being able to grant your excellency's request that sufficient time be allowed the said persons to arrange their business affairs, because they are only in this city en route, and it would not be possible to permit them to return to Bluefields, where they have established their business, because there they are the cause of disturbance and constant intranquility, for which reasons they have been forced to leave that place.

The constitution of the Republic, Mr. Minister, does not guarantee to foreigners a fixed time in which to arrange their private affairs when they are expelled from the country; such regulations are left to the statute laws, which have not yet been promulgated; and the measure of which we treat being purely one of police, to prevent further uprisings against the public order on the Atlantic Coast, is of an urgent character and does not admit of delay.

Permit me to call your excellency's attention to the inconvenience and danger that would be caused by allowing the chief promoters of the disorders which occurred to return to Bluefields even for a short time, as they had sufficient time to arrange their business before leaving the Mosquito Reserve.

The Government, Mr. Minister, is unavoidably in duty bound to procure the interior secure [security?] of the State and to have its sovereignty respected; and notwithstanding that the full rigor of the military law could have been applied to the disturbers for their acts, out of consideration and sentiments of humanity toward the nations to which the revolvers belong, the Government limited itself to dictate a preventive measure of a political character in use of extraordinary faculties.

With expressions of consideration of my particular esteem for Your excellency, I have the honor to subscribe myself your very obedient servant,

M. C. MATUS.

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*Mr. Baker to Mr. Gresham.*

[Telegram.]

MANAGUA, *September 2, 1894.*

After three days' delay in acknowledging my communication delivered under your instructions, by cable, August 29, the Government of Nicaragua refuses to accede to your demand that prisoners be given trial. They contend that they are not bound to give them trial by either the treaty of 1867 or by the laws of Nicaragua. \* \* \*

Our next mail will reach Washington, D. C., October 4.

*Mr. Baker to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
*Managua, September 3, 1894. (Received October 4.)*

SIR: The story of the arrest and banishment of Messrs. J. S. Lamp-ton and G. W. Wiltbank, the two American citizens residing and doing business at Bluefields, is briefly as follows:

On the 16th of August a messenger called upon each of these men separately, at his place of business, and verbally informed him that the commissioner, José Madriz, desired to see him, and politely inquired if he would be good enough to call at the former's office. Of course, each gentleman answered in the affirmative, and at once, laying aside all other duties, made the call. They were ushered into an office, but not into the presence of the commissioner. The officer in charge informed them that they were prisoners. This announcement naturally caused them great surprise. They inquired upon what charges the arrest was based. No information was given in response. After exhausting every endeavor to gain this important information, and to see the commissioner in person, without avail, and finding that they were certainly to be sent to Managua without being enlightened as to the cause, they addressed themselves to an effort to gain permission to return to their places of business and residences for a few hours to prepare for their trip. No argument or expostulation could gain the granting of this reasonable and just request.

Then application was made to permit business associates or members of their families to visit them, in order that they might give some directions about their business and domestic affairs. This most reasonable request was shamelessly and brutally denied to them. Neither were they permitted to have a particle of food during the entire day, nor were they furnished with any sort of bed to lie upon that night. At a late hour friends succeeded in sending to them some blankets and a change of clothing before they were taken away.

The prisoners represent that the trip, occupying the succeeding twelve days, was in every respect as uncomfortable as can be imagined. They were herded with a strong guard, numbering about 250, of as filthy apologies for soldiers as ever shouldered muskets, and sometimes the stench about them was sickening in the extreme. The eating was in keeping with the filthy and nauseous surroundings.

Arriving on the evening of the 27th at Managua, the prisoners were marched from the railroad station to the palace, where the President informed them that he would look over his telegrams that night and would send for them next morning. On their petition and that of their friends they were permitted to spend the night in the hotel at their own expense instead of in the prison, which latter is a wretched, filthy place, from all accounts I have had of it.

The next morning, between 9 and 10 o'clock, the prisoners were all—for there were fourteen, two Americans and twelve British—notified to get ready to go to the palace. After washing and brushing up and announcing their readiness to go, word was whispered into the ears of some of them that perhaps it would be as well if they would take their baggage with them. This was hastily packed up, and they were marched directly to the steamboat landing, under armed guards, and carried, without any chance whatever to be heard in their own behalf, out of the country.

The evening of the arrival of the prisoners in Managua the two Americans spent at my house, and they gave me the above information.



They also told me that the few Americans at Bluefields who were conscious of having committed any unlawful acts against the sovereign Government had left the country of their own accord, and they had remained in the full consciousness of having contributed all in their power toward the preservation of the peace.

On the following morning the little newspaper edited by Mr. José D. Gamez contained an item intimating that a portion of the prisoners, including the two Americans, would be banished from the country. It did not say when this would be done. But I lost not one moment in addressing a hasty note to the President (see inclosure in my No. 375), earnestly protesting against the banishment of Messrs. Lampton and Wiltbank without an opportunity being given them to return to their homes and putting their business in order, and an impartial trial being secured to them. No attention was paid to this protest until after the prisoners had been sent on their way.

The reply of this Government was to the effect that it would be dangerous to the peace of the country to permit these "chief promoters of the disorders" to return to Bluefields even for a short time, and that the prisoners had had ample time to put their business affairs in order before leaving. (See inclosure in my No. 377.)

On the night of the 29th I received your cable of that date, instructing me to "demand immediate open trial of the accused, with all guarantees of defense secured by treaty; and in default thereof, their release."

At an early hour on the morning of the 30th I presented your demand, in the name of the President of the United States. (See inclosure in my No. 378.)

At 6 o'clock on the evening of September 1, three days having elapsed, the answer was delivered at the legation. In this the Nicaraguan Government takes the altogether untenable position that neither the treaty of 1867 nor their own laws require them to give trial to the accused. They point to the fact that they do not give trial to their own citizens, and argue that American citizens can not claim better treatment at the hands of the Government than they give to their own. This communication I did not answer.

So the matter stands to-day.

I have, etc.,

LEWIS BAKER.

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[Inclosure.—Translation.]

*Mr. Matus to Mr. Baker.*

MINISTRY OF FOREIGN AFFAIRS OF NICARAGUA,  
National Palace, Managua, August 31, 1894.  
(Received 6 p. m., September 1.)

MR. MINISTER: I have had the honor of receiving your excellency's communication of yesterday, in which you remind me that on the 28th instant your excellency entered a protest against the proceedings of my Government in the arbitrary arrest and expulsion from this country, without previous notice or trial, of American citizens who were engaged in business at Bluefields. Your excellency states that on the same day you received my reply in which I informed you that the Government adopted such proceedings against those parties because they had been implicated in the uprisings which occurred in the Mosquito Reserve, and you say that if such is the case, it is susceptible of proof. Your



excellency also reminds me of having called my attention to the protection guaranteed to foreigners by our constitution (*ley fundamental*), and add that you must now respectfully protest against the expulsion already effected, which you characterize as an act of hostility, and hold to be in direct violation of our treaty with the United States of 1867.

In continuing, your excellency transmits to me your instructions from the President of the United States. In them it is affirmed that he has been pained to learn that American citizens residing at Bluefields were suddenly and arbitrarily arrested without permitting them to see their families and friends, and were forcibly taken to Managua to answer charges; that in spite of the protests of the American naval agents, the proceedings were continued, ignoring the motives which occasioned them; that this arrest is in violation of the treaty of 1867, and is far from being a generous response to the friendly disposition recently manifested by the United States Government respecting the sovereignty of Nicaragua over the Mosquito territory; and in conclusion the President demands (*pide*) that the accused be tried with all guarantees of defense secured by the treaty existing between the two countries, and in default of this, their immediate release.

The measure, Mr. Minister, which my Government dictated on the 28th instant, is purely political and of high police, adopted to maintain public security, by expelling from the country certain disturbing elements, pernicious in the present circumstances of the Republic. According to that measure a previous trial, with all the formalities of the law, is not required, but certain investigations to prove the responsibility of the persons suspected are enough to justify the proceeding. This is based upon the laws of July 21 and the 18th of August, passed by the National Assembly, with the object of effecting our sovereignty over the Atlantic Coast, of maintaining it throughout the country, and of assuring the public tranquillity.

In the second article of the former law the Executive is authorized to adopt such measures as he may judge convenient, with the said object, and in article 3 the mode of procedure is set forth. The law of the 18th instant provides that in case of crimes against the peace and public security the Executive shall proceed administratively (*gubernativamente*); and, as in matters of legal proceedings the laws are retroactive, so this latter law could have been applied to the parties implicated in the Bluefields rebellion.

My Government does not think that the resolution of the 28th instant is in violation of the treaty of 1867, existing between Nicaragua and the United States of America. An equality of guarantees and proceedings is insured by said convention to Nicaraguans and Americans, and that equality has been maintained in this case; in fact, on the 1st instant, that same law was applied to certain citizens of this Republic, among whom were some high ecclesiastical dignitaries, in exactly the same manner as was applied nine days later to the sons of the great American Republic. These persons have, therefore, been treated the same as Nicaraguans under equal circumstances.

I must call your excellency's attention to the fact that the prisoners were treated with the greatest consideration, having enjoyed all of the commodities offered by our country; en route they were in comparative liberty, having had no other escort than the aides-de-camp of the general in chief; they were lodged at the principal hotels; their first-class passage was paid on the railroads and steamers. In this capital the President gave them an audience, during which they were unable to

refute the charges brought against them, because the part they took in these affairs is undeniable.

Your excellency says that if the responsibilities incurred by Messrs. J. S. Lampton and George B. Wiltbank are true, it is susceptible of proof. Nothing is more evident, Mr. Minister. It will suffice for me to tell your excellency that the former served on the council born of the Bluefields rebellion, and the latter acted as magistrate of the same, thus assuming all the responsibilities incurred by the rebels against the Government of Nicaragua for the attempts against its sovereignty on the 5th, 6th, and 7th of last July, and for all other acts of the rebellion. On the 5th of the said month the rebels attacked the commissioner's palace; on the 6th they dragged our flag through the streets of the city, and on the 7th they assaulted with perfidy our small garrison on the bluff, taking possession of its arms and killing in an unjustifiable manner several of our soldiers. At Corn Island, also, they fired on the Nicaraguan authorities, wounding the secretary of the chief of police and burning the police building.

And the responsibility for all these acts rests upon Messrs. Lampton and Wiltbank, as they were members of the rebels, as well as upon the other participants of the rebellion. Those acts are public and notorious; they were witnessed by the city of Bluefields, they happened in sight of the American ship *Marblehead*, and the press universally has published accounts of them, and they have been verified by Dr. José Madriz, special commissioner of the Government to the Mosquito Reserve, in his investigations, which resulted in his obtaining evidence so clear and truthful that my Government will not hesitate to present it to the Government of the United States, that it may judge for itself and acknowledge the soundness of the motives for this Government's actions. To that end it will send a copy of the evidence directly to the Cabinet at Washington through our minister Dr. Guzman.

As an eloquent testimony of the moderation with which this Government has acted in dealing with the rebels against the peace of the Republic, I must call your excellency's attention to the fact that if they had been tried according to the ordinary laws the tribunals would have applied to them the most vigorous penalties of the military ordinances; but that was avoided by resorting to the law of August 18 and dictating a more benignant measure and one of a purely political character, and the Government has carried its impartiality so far that the persons against whom less serious charges were brought have only been confined in the interior of the country.

Mr. Minister, the Government of Nicaragua does not think that in acting in conformity with the laws as it has done, and in treating the American citizens as Nicaraguans according to the manner in which they have been treated, the Government of the United States can complain that mine has not reciprocated the friendly feeling which the former has always shown in upholding our sovereignty over Mosquitia; on the contrary it is the belief of my Government that the United States Government is obliged, in this case more than in any other, to do Nicaragua justice, because it has never doubted our rights on the Atlantic coast, but has protected them by the Monroe doctrine, which is the protection of the American nations; has supported them in memorable treaties, and has defended our rights in bright pleadings of its Cabinet; and consequently it can not but now acknowledge the sovereign act exercised by Nicaragua in having ordered the expulsion from its territory of those who disturbed the peace of the Republic by pre-



tending to deny its sovereignty over a very important portion of our soil.

My Government would have acted with remarkable injustice if in expelling from the country the English subjects who were the promoters and leaders of the Mosquito rebellion it had not done likewise to some of their accomplices, on the ground that they were the sons of a friendly republic, as is the United States of America, to which we are united, not only by the fraternal ties of sympathy, but by the common interest of the continent and those created by the grand enterprise of the inter-oceanic canal.

My Government is confident, Mr. Minister, that these explanations will be sufficient to justify its proceedings against Messrs. Lampton and Wiltbank, and to dispel whatever bad impression such proceedings may have created; and, above all, this is no case to be taken as an act of hostility toward the great American nation which you represent among us, and with which we are happily united by the ties of friendship, interest, and family.

With all consideration and my highest expression of esteem for your excellency, I have the honor to subscribe myself, your very obedient servant,

M. C. MATUS.

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*Mr. Baker to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
*Managua, September 12, 1894. (Received October 4.)*

SIR: In my official dispatch dated July 27, the following paragraph occurs:

I had a talk with Dr. Madriz this morning and I find his mind filled with the idea that the Americans are at the bottom of the trouble at Bluefields; and his assistant secretary, Ramon Mayorga Rivas, more frank than discreet, announced the purpose of the Government to take down 1,000 troops and 4 cannon, and to butcher all the Americans in that territory if necessary to establish and maintain Nicaraguan rule there.

Mr. Mayorga has informed me that Minister Guzman writes from Washington that he (Mayorga) made use of this language to me. While this is not exactly the case, he has now admitted to me that he did make use of substantially this language to my informants, but that he was in fun. Mr. H. C. Emery, of Boston, first informed me of this man's talk. I was so astounded that I requested Mr. Emery to see Mr. Mayorga and call his attention to the expression reported to have been used by him. Mr. Emery did so, and afterwards called upon me and said that Mr. Mayorga repeated to him almost the identical expression.

The words were first used by Mr. Mayorga while in conversation with Mr. P. W. Chamberlain, a reputable American citizen and correspondent of the New York Herald. It was afterwards repeated, in substance, to Mr. H. C. Emery, of the mahogany firm of that name, Boston, Mass.

Mr. Mayorga has since been relieved of his official position and is now in private life. He had always claimed to be an especially good friend of Americans, and I was astounded to hear of his use of the intemperate language attributed to him.

I have, etc.,

LEWIS BAKER.



*Mr. Guzman to Mr. Gresham.*

[Translation.]

LEGATION OF THE REPUBLIC OF NICARAGUA,  
*Washington, September 22, 1894. (Received September 22.)*

SIR: The American citizens, Lampton and Wiltbank, were, as I told your excellency, expelled from Nicaragua because they took part in the revolutionary movement against the lawful authority, ignored the sovereignty of the Republic over Mosquitia and supported the so-called government of Robert Henry Clarence.

It is true that under the treaty concluded June 21, 1867, between Nicaragua and the United States, Messrs. Lampton and Wiltbank had the right to reside in the Nicaraguan territory and there to pursue their business in full security and safety, but they forfeited their right from the very fact that they took part in an armed rebellion against a nation that had admitted them in her midst. From the time when they placed themselves in such an attitude they made themselves dangerous persons for the public peace, and they are without any right to claim protection in accordance with the above-mentioned treaty.

The Government of the United States maintains its right to exclude from American territory all person deemed by it to endanger the welfare and peace of the country, and this powerful Republic has too great a sense of justice to deny to other nations that which she claims for herself.

If Messrs. Lampton and Wiltbank wish to return to Bluefields for a reasonable period for the purpose of there arranging their affairs and disposing of their property, should they hold any, let them address to my Government a petition to that effect, and their request will be granted without delay, for nothing affords more gratification to Nicaragua than an opportunity to demonstrate the friendly feelings by which it is animated toward the Government and the people of the United States.

I have, etc.,

H. GUZMAN.

*Mr. Gresham to Mr. Baker.*

[Telegram.]

WASHINGTON, *September 24, 1894.*

Nicaraguan minister says Wiltbank and Lampton will be allowed, on request, to return to Bluefields to wind up business. Have they property or families at Bluefields or in Mosquito? In what business were they before July 5? Communicate with them without delay and report.

*Mr. Braida to Mr. Uhl.*

UNITED STATES CONSULATE,  
*San Juan del Norte, September 25, 1894. (Received October 20.)*

SIR: I have the honor to transmit to you an affidavit filed at the office of the consular agency at Bluefields by Mr. N. L. Latson, purser of the American steamship *Yulu*.

The facts mentioned therein have previously been stated to me by other persons, and have been confidentially reported to the Hon. Lewis Baker.

I have, etc.,

S. C. BRAIDA.

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[Inclosure.]

*Affidavit of N. L. Latson.*

UNITED STATES CONSULAR AGENCY,  
*Bluefields, Nicaragua, September 22, 1894.*

This day, before me, the undersigned authority, personally came and appeared Norman L. Latson, to me known, and on his oath declares that heretofore, to wit, on or about the 3d day of August, 1894, affiant was purser on board the American steamship *Yulu*, which arrived off Bluefields on the 3d day of August, 1894, having on board five hundred or thereabouts Nicaraguan soldiers and officials, among whom were Mr. José Madriz, Nicaraguan minister of foreign affairs, General Portocarrero, judge-advocate, and Carlos Lacayo, ex-commissioner of the Mosquito Reserve. Affiant further states that upon approaching the U. S. S. *Columbia*, which was at anchor off Bluefields, the captain of the *Yulu* signaled that he had on board the above-mentioned troops and soldiers, under protest.

He was thereupon ordered by the U. S. S. *Columbia* to anchor alongside, and was shortly afterward boarded by Lieut. O. W. Lowry, of said vessel. Lieutenant Lowry refused to allow the captain of the steamship *Yulu* to disembark the Nicaraguan troops aboard until he had communicated with Captain Sumner, of the steamship *Columbia*, who was in the town of Bluefields. He directed Captain Johnson to take the steamship *Yulu* into the harbor of Bluefields and to come to an anchor there. Lieutenant Lowry also placed aboard the steamship *Yulu* a boat's crew of eleven men, in charge of Ensign Kuenzli, who was to prevent the disembarkation of the Nicaraguan troops until the return of Lieutenant Lowry, who went into the town in the steam launch of the *Columbia* to receive instructions from Captain Sumner. Lieutenant Lowry offered to convey Minister Madriz and any of his officers into the town in his steam launch, but the proffered offer was refused, whereupon Lieutenant Lowry stated that he would return with Captain Sumner's answer in the shortest possible time—probably two hours.

Affiant further states that the Nicaraguan officials were very indignant at the refusal to allow them to disembark the troops at once, and indulged in strong language against the action of the United States. As time passed, the excitement and indignation among them began visibly to increase. The water tanks of the steamship *Yulu* had been left open by the Nicaraguan soldiers during the night, and all the fresh water allowed to escape, and the aforesaid soldiers were clamoring for water during their detention. Finally some of the officials made signals to the Government wharf, about 50 yards away, at which was stationed a force of Nicaraguan soldiers, and two boats were sent out to the steamship *Yulu* in response. Affiant further states that in the wheel-house of the steamship *Yulu* were Ensign Kuenzli with two men, the remainder at the time of the occurrence being disposed about the roof of the upper deck. There were also present Carlos Lacayo, Ramon Enriquez, a merchant from Grey Town, Nicaragua, and the affiant, Norman L. Latson. The latter, leaning out of the window of the wheel-house, heard Minister Madriz, who was accompanied by Judge-Advo-



cate Portocarrero, ordered Captain Johnson, of the steamship *Yulu*, to take his vessel in to the Government wharf at once and discharge the troops. This Captain Johnson refused to do, stating that his vessel was in control of the officer from the U. S. S. *Columbia*, and therefore not in his power to obey such a demand.

Affiant further states that thereupon Judge-Advocate Portocarrero, closely followed by Minister Madriz, rushed into the wheelhouse of the steamship *Yulu*. They were both white with anger, and Portocarrero had in his right hand, with his finger on the spring, a clasp knife with a blade about 8 inches long. Ensign Kuenzli sat on a portion of the steering gear of the steamship *Yulu*, within a few feet of Portocarrero, and with his back toward him. He was reading, but remarked later that he was aware something serious was impending. The two other men from the *Columbia* were on the opposite side of the wheelhouse, looking out of a window, and with their backs also turned to the Nicaraguan officials. Most of the rifles belonging to the man-of-war's men were stacked in this wheelhouse, and the Nicaraguans were aware that it would be almost impossible for the men who were on the roof to reach them in case of sudden attack. There were at least 100 Nicaraguans on the upper deck of the steamship *Yulu*, and completely surrounding her wheelhouse.

When Madriz and Portocarrero rushed into the wheelhouse they gathered around the two doors, which open onto the deck, and, with fixed bayonets and drawn swords, listened to what transpired. Portocarrero commenced a violent and insulting tirade against the United States, claiming, among other things, that her action in refusing to allow Nicaraguan troops to disembark was cowardly and the tyrannical oppression of a small and defenseless country by a large and powerful one. Madriz agreed with him, and stated that he considered this action an insult to Nicaragua through him; he further said that they had agreed to wait two hours for an answer and that nearly three had elapsed. Portocarrero then said, turning to Madriz: "Let us make them take the ship in to the wharf and disembark the troops." Affiant then said: "You are making a serious mistake, General Portocarrero, and do not understand the circumstances of this detention."

Portocarrero appeared to lose control of himself, and being seconded by some encouraging exclamations from the crowd around the doors, he raised his knife, and, pointing toward the young officer, said to Madriz: "You give the command and I will throw myself upon him, and we will take the ship in to the wharf against any resistance on their part." At this instant, and before Minister Madriz could reply, Captain Johnson, of the steamship *Yulu*, stepped into the room and said that he saw smoke across the lagoon, and believed that the launch was returning. Madriz then turned to Portocarrero, who still stood, knife in hand, and said: "We will wait and see whether it is the launch; we will give them half an hour more, and if it is not, we will go in anyhow." Both Lacayo and Enriquez endeavored to dissuade Portocarrero from the position he had taken, but they were not listened to. The smoke mentioned by Captain Johnson proved to be from the steam launch of the *Columbia*, and in due time Lieutenant Lowry reached the steamship *Yulu* with instructions from Captain Sumner to permit the disembarkation of the Nicaraguan troops.

Affiant further states that from his knowledge of the mood and temper of the Nicaraguan officials, and from the threats he personally heard expressed, he deposes and says that he believes a disaster and



massacre aboard the steamship *Yulu* was only averted by the timely sighting of the *Columbia's* steam launch.

Affiant further states that he is a native of the United States, born in the State of New York, and for five years a resident of Nicaragua. He also states that he thoroughly understands Spanish, in which language the above remarks were made.

NORMAN L. LATSON.

Sworn to and subscribed before me this September 22, A. D. 1894.

[L. S.]

B. B. SEAT,

*United States Consular Agent*

*Mr. Baker to Mr. Gresham.*

LEGATION OF THE UNITED STATES,  
*Managua, September 26, 1894. (Received October 24.)*

SIR: On the morning of the 15th instant I received from Commander Charles O'Neil a telegram stating that the U. S. S. *Marblehead*, with the two American exiles aboard, was at Port Limon, Costa Rica, awaiting instructions from our Government as to their disposition and inquiring if the Nicaraguan Government was desirous of sending any telegrams to Bluefields concerning them.

During my call of congratulation upon the President of Nicaragua on that afternoon, I took occasion to speak to him concerning the case of the exiles. He refused to send any communication, which fact I communicated to Commander O'Neil. The following day I sent you a telegram upon the subject, confirmed in my No. 395. Yesterday I addressed the inclosed note to the Government here in order to get a confirmation of my conversation with the President. The Government's reply, with translation, is also inclosed.

I am, etc.,

LEWIS BAKER.

[Inclosure 1.]

*Mr. Baker to Mr. Baca.*

LEGATION OF THE UNITED STATES,  
*Managua, September 25, 1894.*

MR. MINISTER: On the 15th instant I had the honor of a brief personal interview with His Excellency the President in regard to securing to the two American prisoners or exiles, Messrs. Lampton and Wiltbank, a full, free, and fair trial, with guarantees of a complete defense, or their unconditional liberation. In this unofficial conversation I understood the President to assure me that he would give the matter his immediate attention on the arrival of Special Commissioner Madriz, whose return, he stated, would be on the 21st.

The occasion of my writing this note at this time arises out of the fact that I received another cable from my Government last night instructing me further in the premises.

Asking the courtesy of a prompt settlement of the case of the two exiles named, I have, etc.,

LEWIS BAKER.

[Inclosure 2.—Translation.]

*Mr. Baca to Mr. Baker.*

MINISTRY OF FOREIGN RELATIONS,  
REPUBLIC OF NICARAGUA, NATIONAL PALACE,  
*Managua, September 25, 1894.*

MR. MINISTER: With reference to your estimable communication of this date I have the honor to tell you that Dr. José Madriz, commissioner of the Government in Mosquitia, will arrive in this capital to-day, and upon the information which he will submit to this ministry the question will be decided as whether the time has come to permit Messrs. Wiltbank and Lampton to return to that region or to allow them to return for a few days in order to arrange their business affairs.

Meanwhile I take pleasure in confirming the words of the President when he assured you that the Government was well disposed toward the American citizens residing in this country, and that to prove that he will do everything possible in favor of Messrs. Lampton and Wiltbank.

With expressions of my great esteem and high consideration, I have, etc.,

F. BACA.

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*Mr. Gresham to Mr. Baker.*

DEPARTMENT OF STATE,  
*Washington, September 26, 1894.*

SIR: I inclose herewith copy of a letter of the 20th instant, from Mr. Samuel Weil, of New Orleans, in relation to the appropriation of the Bluff Improvement Land Company's property at Bluefields by the Nicaraguan Government.

You will furnish the Department with a report on the matter as soon as may be.

I am, etc.,

W. Q. GRESHAM.

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[Inclosure.].

*Mr. Weil to Mr. Gresham.*

NEW ORLEANS, LA., *September 20, 1894.*

DEAR SIR: The Bluff Improvement Land Company handed a protest to Minister Baker while in Bluefields in April last.

The protest was against the Nicaraguan authorities expropriating said company's property.

Kindly let me know what action has been taken in the matter and what the result may be.

Respectfully,

SAM'L WEIL,  
(For Bluff Improvement Land Company, of Bluefields, Nicaragua.)

*Mr. Gresham to Mr. Baker.*

DEPARTMENT OF STATE,  
*Washington, October 1, 1894.*

SIR: On the 22d ultimo the Department received from Dr. Guzman, the Nicaraguan minister at this capital, a note, a copy of which is inclosed for your information.<sup>1</sup> You will observe the minister says that the two Americans, Wiltbank and Lampton, were expelled from Nicaragua because they took part, in July last, in the revolutionary movement at Bluefields, ignored the sovereignty of the Republic over Mosquito, and supported the so-called government of Robert Henry Clarence.

For many years this Government has steadily maintained that Mosquito belonged to Nicaragua, and was subject to its laws and authority; and if it be true, as asserted, that Wiltbank and Lampton participated in an insurrection having for its object the overthrow of that authority, this Government can not consistently challenge the right to expel them, provided it was exercised in a becoming manner and without undue harshness.

Under the treaty concluded between the United States and the Republic of Nicaragua in 1867, citizens of this country enjoy the right of residing and engaging in commercial or other business pursuits in Nicaragua, and even if Wiltbank and Lampton forfeited that right in the manner claimed, they were entitled, before being forcibly expelled, to a reasonable time to dispose of any business interests or possessions they had acquired there. This was denied them. On an invitation (friendly on its face) from the chief Nicaraguan official at Bluefields, they visited the public building at that place, and upon entering were arrested, upon no disclosed charge, not permitted to leave or communicate in any way with counsel or friends, taken to Managua, the capital, and there expelled from the country, notwithstanding your intervention in their behalf. I refrain from characterizing the means adopted to obtain the custody of these men.

While it is gratifying to receive the assurance of Nicaragua, through its minister here, that, on their written request, these Americans will be permitted to "return to Bluefields for a reasonable time, for the purpose of disposing of their property, should they hold any," the President is unwilling, without further information, to accept that assurance as the full measure of justice due from Nicaragua. They deny participation in the insurrection, or that they have done anything which would justly deprive them of their rights as American citizens in Nicaragua, under the treaty of 1867. The Secretary of the Navy is informed by the commander of one of our war vessels, anchored off Bluefields, that they are on board his ship, and desire an immediate open trial, and if that be denied them, they be permitted to land and again engage in their interrupted business without further molestation. On receipt of this instruction you will, without delay, ascertain and report what, if any, foundation exists for the charges upon which these men were expelled, not omitting to obtain their own statements under oath.

I am, etc.,

W. Q. GRESHAM.

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<sup>1</sup> See page 343.



*Mr. Baker to Mr. Gresham.*

LEGATION OF THE UNITED STATES,

*Managua, Nicaragua, October 10, 1894.* (Received November 2.)

SIR: Herewith I inclose copies of two communications received by me from the Government of Nicaragua, by which it appears that in accordance with the promise of this Government, as made through Minister Guzman to the United States Government, and the request of Messrs. Lampton and Wiltbank, these gentlemen will be permitted to return to this country for such time as may be necessary for the arrangement of their business affairs.

I have, etc.,

LEWIS BAKER.

[Inclosure 1.—Translation.]

*Mr. Baca to Mr. Baker.*

MINISTRY OF FOREIGN RELATIONS,

*Managua, October 9, 1894.*

MR. MINISTER: I have the pleasure of sending to your excellency, inclosed, a copy of a letter directed by the secretary of gobernacion to the governor intendant of the Mosquito Reservation and inspector-general of the Atlantic Coast, in which is communicated the resolution of the Government in regard to the American citizens, Messrs. J. S. Lampton and George B. Wiltbank.

By this resolution your excellency will see the intention of my Government of always complying with the desires of the Government of the United States of America in so far as they do not interfere with the legitimate interests of Nicaragua.

I have the honor to subscribe myself, as always, your excellency's very attentive and obedient servant,

F. BACA.

[Inclosure 2.—Translation.]

*Mr. Baca to governor at Bluefields.*

MINISTRY OF GOBERNACION,

*Managua, October 9, 1894.*

GOVERNOR AND INTENDANT AND INSPECTOR-GENERAL OF THE ATLANTIC COAST, BLUEFIELDS:

The Government has promised the United States, through Minister Guzman, that if Messrs. J. S. Lampton and George B. Wiltbank requested permission to return to the country temporarily to arrange their business they would be allowed to do so, out of special deference to the North American Republic.

Messrs. Lampton and Wiltbank, who are to-day on board the *Marble-head*, in waters of the Atlantic Coast, have made the necessary request, and consequently the Government authorizes you to permit the said gentlemen to land and remain in Nicaraguan territory for such time as may be mutually agreed upon as necessary for the settlement of their private affairs.

If, during this time, Messrs. Lampton and Wiltbank should observe strict neutrality in the interior affairs of the country, and good deport-

ment toward the authorities of the Republic, you are, by the same act, authorized to raise absolutely the exile imposed on said persons, who, in order to obtain this pardon, must sign an act promising on their word of honor to lend the rightful obedience to the powers of Nicaragua and to all employees who represent it in that territory, and to comply with the other obligations imposed upon them by the laws of the country.

You will please send an authorized copy of this act to this ministry, as well as an account of everything relating to this affair.

Your attentive and obedient servant,

F. BACA.

This is a true copy. Managua, October 9, 1894.

MATUS.

*Mr. Gresham to Mr. Baker.*

[Telegram.]

WASHINGTON, October 25, 1894.

Nicaraguan minister has advised his Government to permit Wiltbank and Lampton to resume their residence and business in Mosquito. Urge that this be promptly done, and report by cable.

*Mr. Guzman to Mr. Gresham.*

[Translation.]

LEGATION OF THE REPUBLIC OF NICARAGUA,  
Washington, October 26, 1894.

SIR: I have just received from my Government the inclosed authentic copy of the sworn declaration, made on the 26th September last, by Don Roman Mayorga Rivas before the prefect of the Department of Granada, Nicaragua, in the investigation made with reference to the expressions attributed to the said Señor Mayorga by the minister of the United States in Nicaragua, as your excellency had the goodness to inform me in your note of August 18, last.

It is gratifying to my Government, as well as to myself personally, to be able to remove, in so conclusive a manner, the unfavorable impression which may have been left on your excellency's mind by the words ascribed to Señor Mayorga, which would never in any case have had more weight than that of an individual opinion.

The good feeling entertained by the Government and people of Nicaragua at all times toward the Government and people of the United States is well known, and it is to be hoped that the relations between the two countries will continue to be in the future as cordial and sincere as they have been in the past.

I renew to your excellency, etc.,

H. GUZMAN.

[Inclosure.—Translation.]

*Declaration of Don Ramon Mayorga Rivas.*

In the city of Granada, at 3.30 p. m., on the 26th September, 1894, Don Ramon Mayorga Rivas, being present in my office, stated that his name is as above written; that he is of age, a resident of Granada, and a planter. I swore him in due form, notifying him of the penalties for perjury in criminal matters, and asked him if it was true that, at the time when preparations were being made for the last expedition to Bluefields, the witness said to the American minister, Mr. Lewis Baker, or to any other person, in his official capacity as under secretary of the ministry of foreign relations, or in private as an individual, that the Government of this Republic intended to send a thousand troops and four guns to Mosquitia, and to kill all the Americans in that territory, if it was necessary in order to establish and maintain the supremacy of Nicaragua there; to all which he replied:

That it was not true that, either in his official or private capacity, he had said anything whatever to Minister Baker with regard to the expedition to Bluefields, and that he appealed to the testimony of Mr. Baker himself, with whom the witness has never discussed the subject of the last events at Bluefields, which compelled the Government to send the expedition, because at that time the witness was not in charge of the portfolio of foreign relations, but Dr. Madriz.

That the only person with whom he conversed about the expedition was Mr. Chamberlain, and that only when the expedition was a matter of public notoriety, the proclamation of General President Zelaya having been promulgated. The witness told Mr. Chamberlain, in his private capacity—for he had no occasion to talk to him on the subject in any other—that the Government intended to punish the rebels and their instigators. These views were the same as those of the said proclamation and of the official journal.

Furthermore, the witness declares that he has not replied to a note addressed to him by the secretariat of foreign relations on this subject, because he is awaiting a reply to a letter which he had addressed to Mr. Baker, asking him for a categorical answer which would bring out the truth, to wit, that the witness has never, either in his official character, nor as a private individual, said the least thing to Mr. Baker having reference to the Bluefields expedition. It was read to him; he affirms and signs with me and the secretary, who attests: "Juan J. Bodan. R. Mayorga Rivas. Before me, José Ma. Bodan, secretary."

[L. S.]

A true copy. Managua, September 27, 1894.

F. BACA.

*Mr. Gresham to Mr. Baker.*DEPARTMENT OF STATE,  
Washington, October 30, 1894.

SIR: I have received your No. 383, of the 3d ultimo, inclosing a copy of the reply made by the Nicaraguan Government to your protest against the expulsion of Messrs. Lampton and Wiltbank without trial, in which that Government asserts that, as it exercises under the laws recently enacted the right to expel its own citizens without trial, American citizens residing in the Republic can not claim more favorable treatment under the treaty of 1867.



If Messrs. Lampton and Wiltbank accepted office after the overthrow of Nicaraguan authority at Bluefields on July 5, without having taken part in the insurrection which led to that result, and if their acceptance of office was merely to contribute to the protection of the community under the de facto government, the Department considers that their expulsion was unjustifiable.

I have, therefore, to instruct you that the two gentlemen near Auburn (whose case has been brought to the attention of the Department by the commanding officer of the U. S. S. *Marblehead*), Md., other Americans are entitled under the treaty of 1867 to reside and do business in Nicaragua; that they can not be deprived of that right unless it has been forfeited, and that they are entitled to know the grounds of forfeiture.

If forfeiture is claimed for causes other than political, they are entitled to an open and fair trial. If for alleged participation in an insurrectionary movement against Nicaragua, they should be informed of the charge against them and the evidence in support of it.

This position will be maintained by the United States hereafter in all cases.

I am, etc.,

W. Q. GRESHAM.

*Mr. Guzman to Mr. Gresham.*

[Translation.]

LEGATION OF NICARAGUA,  
Washington, November 2, 1894.

SIR: Under date of the 13th ultimo the minister of foreign relations of Nicaragua tells me the following:

In conformity with the promises made to your excellency, as soon as the Government received the petition of Messrs. Lampton and Wiltbank, asking that they might be permitted to return to the country for the time required for the settlement of their business, it was granted. The courtesy of my Government has gone still further; it ordered the superior authorities of Bluefields to revoke absolutely the banishment of those gentlemen if their conduct during the term granted them was peaceable and entirely submissive to the laws of Nicaragua.

It gives me the greatest pleasure to communicate this statement to your excellency, as it proves clearly that the Nicaraguan Government is always animated by the most friendly feelings toward the Government and people of the United States.

I beg your excellency to have the goodness to communicate the foregoing resolution of my Government to His Excellency the President, and to accept, etc.,

H. GUZMAN.

*Mr. De Soto to Mr. Uhl.*

CONSULATE OF THE UNITED STATES,  
*San Juan del Norte, November 9, 1894. (Received December 1.)*

SIR: I have the honor to report, according to letter received from Mr. B. B. Seat, United States consular agent at Bluefields, Nicaragua, and from Capt. C. O'Neil, commander of the U. S. S. *Marblehead*, that, in accordance with permission solicited and received from the Nicaraguan Government, the United States citizens Messrs. Lampton and Wiltbank were landed in Bluefields on the 26th of October last.

Matters in Bluefields are reported very quiet and orderly, and no further troubles are anticipated. The U. S. S. *Marblehead* was to have left Bluefields for Cartagena on the 5th instant.

The municipal government was to be inaugurated at Bluefields on the 29th of October last. As soon as necessary information has been received I will write to the Department.

I understand that the Nicaraguan officials at Bluefields have adopted a conciliatory and friendly policy toward Americans and all other foreigners there.

I have had no communication from Minister L. Baker since the departure of Consul S. C. Braidà.

I am informed that all is quiet and orderly in the interior also.

I have, etc.,

HENRY DE SOTO,  
*United States Vice-Consul.*

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*Mr. Gresham to Mr. Baker.*

DEPARTMENT OF STATE,  
*Washington, November 15, 1894.*

SIR: The Department has received yours of October 26 last, with inclosures, relating to the Nicaraguan Government's forcible seizure and occupation of the valuable property near Bluefields, known as the "bluffs," owned in part by United States citizens. In reply to the American owners' protest against this action, which you submitted to that Government, the minister of foreign affairs has written you that under the constitution of Nicaragua and international law, "no foreigner can solicit the intervention of his Government in defense of his rights or pretensions until after he has exhausted all remedies which the laws of the country in which he lives allow him, and his complaints have been disregarded with notorious injustice."

What remedies the laws of the country give for such cases are not stated. You appear to think that the courts of Nicaragua should be appealed to for redress before this Government can interfere diplomatically. The note from Mr. Matus to you seems to intimate that the injured parties are required to apply directly to the Nicaraguan Government for relief, which, if granted, will be of grace rather than of right.

In reply to Mr. Matus's suggestion that the parties should seek relief by direct appeal to his Government, it may be remarked that international law requires complaints on behalf of foreigners to come through their own Government. Unless it assumes the responsibility of presenting them, they need not be considered.

Your suggestion that recourse to the courts should be exhausted before diplomatic intervention is resorted to is, as a general proposition, sound, assuming of course that the courts have jurisdiction. But the treaty between the two countries entitles American citizens whose property has been taken by Nicaragua for public purposes, without full and just compensation paid in advance, to invoke in the first instance the diplomatic intervention of the United States in their behalf.

The very act of the Government of Nicaragua in taking the property without full and just compensation paid in advance was a violation of the treaty (sec. 3, Art. IX, treaty of 1867). No action of its courts (assuming them to have jurisdiction of such suits) can change the

character of the act, or make it any the less a plain violation of the treaty.

Should the courts decide in favor of the aggrieved parties and award them compensation, and that compensation be actually paid, the treaty would still remain violated, because the compensation was not paid in advance of the taking of the property. To claim that redress must be sought through the courts is to claim that payment of compensation may be postponed till the property has actually been taken, in face of the treaty which says that payment must be made in advance. One party to a treaty can not thus practically change its terms and evade its requirements.

The American citizens suffering by this arbitrary appropriation of their property are entitled to the aid of their Government in securing from Nicaragua adequate indemnity for any losses they may have sustained.

I am, etc.,

W. Q. GRESHAM.

*Mr. Guzman to Mr. Gresham.*

LEGATION OF THE REPUBLIC OF NICARAGUA,  
Washington, November 22, 1894. (Received November 23.)

SIR: I have the honor to inclose the English translation of a cable message I received last evening from the Government of Nicaragua.

Accept, etc.,

H. GUZMAN.

[Inclosure.—Cablegram.—Translation.]

*Mr. Madriz to Mr. Guzman.*

MANAGUA, November 21, 1894.

SIR: British Minister Gosling declares that England does not accept Nicaraguan rule in Mosquito.

MADRIZ.

*Mr. Guzman to Mr. Gresham.*

[Cablegram.—Translation.—Handed to Mr. Gresham by Mr. Guzman November 24.]

MANAGUA, November 23, 1894.

British Minister Gosling has telegraphed to Limon orders for an English man-of-war to go to Bluefields. Request American Government to send also a cruiser to that port. Very urgent.

BACA.

*Mr. Bayard to Mr. Gresham.*

EMBASSY OF THE UNITED STATES,  
London, November 24, 1894. (Received December 3.)

SIR: I have the honor to state that yesterday, by appointment, I called on Lord Kimberley at the foreign office, and the subject of the interview was the present condition of affairs between Great Britain



and Nicaragua, arising out of the rough treatment of Mr. Hatch, a representative of the former Government at Bluefields, at the hands of Nicaraguan authorities.

His lordship stated the occurrences complained of dated some three months ago, and, although explanation had at once been demanded, no response was made until two days ago, when a very voluminous reply in Spanish (necessitating translation) had been sent in, but which he had not yet had time to consider.

For the purpose of sending this dispatch by the mail to-day, it is enough to say that his lordship desires explicitly to have it understood that any action in the way of obtaining redress from Nicaragua which Her Majesty's Government may hereafter decide is necessary in the premises is wholly unconnected with any political or conventional question touching the Mosquito Reservation, but is simply a proceeding, on the grounds of international law, to obtain satisfaction for an affront.

His lordship repeated to me, with much emphasis, his desire that this should be understood, and that he had no other wish than to act in accord and with the approval of the United States in matters concerning political control in Central America.

I reminded his lordship of the very imperfect civilization of the region where these difficulties had arisen, and of the incidental departures from the regulated proprieties of official life and legal methods which were naturally to be looked for in that quarter.

I told him in general substance the views I had expressed to Señor Barrios here in October last, and lately in Washington to Señor Guzman, in relation to the entire facility and finality with which the Government of Nicaragua could pacify the entire region and absorb the small remnant of Indian self-government in Mosquito by simply dealing with generosity and gentle pressure with the leading Indians, and procure that "formal incorporation" of the territory of the Mosquito Reservation and the rest of Nicaragua provided for in the treaty of Managua, and thus the entire question of jurisdiction and of British or other interference could be ended.

Lord Kimberley warmly seconded this view, and expressed a desire it should be carried out.

Thus it will be perceived that Nicaragua has the matter in her own hands, and, by the exercise of common intelligence and discretion, can relieve herself from all possible complications growing out of past treaties, and her ill-advised submission to Austrian arbitration.

Mr. Barrios, who called here yesterday, produced a telegram in Spanish, unsigned, but from his Government, stating that Mr. Gosling, the British minister, declined to accept decrees of the Nicaraguan commissioner in Mosquito.

This I assume to mean that until Nicaragua has given the explanation demanded by the British Government, as to the forcible arrest and deportation of their agent, they will suspend relations with them.

If Nicaragua has (as is quite probable) exceeded the bounds of international amity and courtesy, she can not too soon place herself right by promptly making just amends. I am satisfied Great Britain has no insidious or unstated purposes or designs in relation to Central America; and, together with the United States, is best served by a condition of absolute peace and order in that region, uninterfered with *ab exteriori*.

I have, etc.,

T. F. BAYARD,

*Mr. Gresham to Mr. Bayard.*

[Telegram.]

WASHINGTON, November 24, 1894.

Minister from Nicaragua is advised by his Government that British minister to Nicaragua declares England does not accept Nicaraguan rule in Mosquito territory, and that British minister has telegraphed to Limon for English war vessel to go to Bluefields. While this information is not fully credited here, you will inquire and report.

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*Mr. Bayard to Mr. Gresham.*

[Telegram.]

LONDON, November 27, 1894.

Minister for foreign affairs states war vessel not ordered Bluefields, and British notification to Nicaraguan commissioner merely caveat pending discussion, and not intended as conclusive. Dispatches now on way explain situation.

BAYARD.

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*Mr. Bayard to Mr. Gresham.*

EMBASSY OF THE UNITED STATES,  
London, November 27, 1894. (Received December 10.)

SIR: I had the honor by my dispatch of the 24th instant to lay before you a report of the interview I had just held with the Earl of Kimberley in relation to Nicaraguan affairs and the British action connected therewith.

Late on Saturday night, the 24th instant—and after my dispatch had gone—I received your cablegram in cipher of that date (of which a translation is now herewith inclosed), and I at once communicated its purport to Lord Kimberley, and inclose herewith a copy of my note to him, dated November 26, in which I recounted my report to you.

Yesterday (Monday) afternoon I received a reply from his lordship, inviting me to call upon him at the foreign office, and at once went there.

Lord Kimberley, having my note of the 26th lying before him, stated that my report to you of the interview of Friday previous, as recited in my note of that day to him, was entirely accurate, but that he had not then informed me of his latest telegraphic instructions to the British minister at Nicaragua respecting a number of decrees which had been lately promulgated at Bluefields by the Nicaraguan commissioner, and which, pending the consideration of the incident of the arrest and expulsion of the British proconsul and the proposed discussion here by Señor Barrios, were not accepted by the British Government, but that a notification of a cautious nature—"a caveat" (as his lordship termed it)—had been filed by the British minister, in order that the assent and approval by Great Britain of these decrees, so far as they affected British interests in Nicaragua and British duty under the treaty of Managua and the Austrian award thereunder, should not be

considered as conclusively given, but to remain suspended until the mission of Señor Barrios and the incident of Hatch's arrest should have reached a satisfactory termination.

\* \* \* \* \*

I have the honor, etc.,

T. F. BAYARD.

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[Inclosure.]

*Mr. Bayard to Lord Kimberley.*

EMBASSY OF THE UNITED STATES,  
London, Monday, November 26, 1894.

DEAR LORD KIMBERLEY: After the interview which I had the honor to hold with your lordship on last Friday afternoon I wrote to my Government a full statement of what you then told me you had in possible contemplation in relation to Nicaragua, after you should have considered the reply of that Government (then undergoing translation from the Spanish) to your demand for explanation of the incident of the arrest and forcible expulsion by the Nicaraguan authorities of Mr. Hatch, the locum tenens of the British consul at Bluefields, in August last.

I reported very fully your statement of the attitude of Great Britain toward Nicaragua and your desire to have it explicitly understood by the United States that any measures Her Majesty's Government might feel obliged to adopt, by reason of the alleged ill treatment of Proconsul Hatch, or of other British subjects, at Bluefields, would be wholly apart and unconnected with the "Mosquito" question or the jurisdiction of Nicaragua over the inhabitants of the territory included in the region that bears that name; and that you proposed to proceed, solely upon grounds of international duty and self-respect, to procure such redress for an alleged wrong to your citizens as might be found just and necessary, and that no jurisdictional or other question would be involved.

Late on Saturday night, and after my dispatch had gone, I received a telegram from Secretary Gresham to the effect that the Nicaraguan minister at Washington stated that he had been informed by his Government that the British minister to Nicaragua had announced that his Government does not accept Nicaraguan rule in the Mosquito territory, and that he had sent for a British man-of-war.

The Secretary is not disposed to credit these statements, and merely asks for information; but before answering his telegram, I wanted to keep you advised of all the facts and, if you think I should be further informed than I was by you in our interview of Friday, you will kindly let me know, and I will at once come and see you.

And I remain, etc.,

T. F. BAYARD.

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*Mr. Gresham to Mr. Bayard.*

[Telegram.]

WASHINGTON, November 28, 1894.

Statements in newspapers of to day about action of United States, based upon what Great Britain has done or may do at Bluefields, pure fabrication.



*Mr. Gresham to Mr. Bayard.*

DEPARTMENT OF STATE,  
Washington, December 3, 1894.

SIR: I have read with much interest yours of the 24th ultimo, in which you report the substance of an interview on the preceding day with Lord Kimberley in relation to the present position of question between Great Britain and Nicaragua.

\* \* \* \* \*

Lord Kimberley's statement to you that the attitude of Great Britain in this matter is wholly unconnected with any political or conventional question touching the Mosquito Reservation is in gratifying confirmation of the communications made to me by Sir Julian Pauncefote and Mr. Goschen, and I was prepared for his lordship's acquiescence in your view that the political questions involved may readily yield to pacific and generous treatment on the part of Nicaragua toward the Mosquito Indians, with a view to their formal incorporation with the Republic, as contemplated in the treaty of Managua.

The statement made to you by Señor Barrios that he had been advised by telegraph that Mr. Gosling, the British minister at Managua, "declined to accept decrees of the Nicaraguan commissioner in Mosquito," is more explicit than other information here received, and suggests that the minister's opposition may have been in regard to particular measures affecting British subjects.

I am, etc.,

W. Q. GRESHAM.

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*Mr. Gresham to Mr. Baker.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, December 15, 1894.

Have Mosquito Indians surrendered their rights under treaty of 1860 and been incorporated?

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*Mr. Baker to Mr. Gresham.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
La Libertad, December 17, 1894.

Mosquito Indians have surrendered their rights under the treaty of 1860 and been incorporated with Nicaragua.

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*Mr. Gresham to Mr. Bayard.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, December 17, 1894.

In response to an inquiry, our minister to Nicaragua advises me to-day that the Mosquito Indians have surrendered their rights under the treaty of 1860, and have been incorporated with Nicaragua. This confirms statement made to me by minister from Nicaragua.

*Mr. Gresham to Mr. Bayard.*

[Telegram.]

WASHINGTON, *December 19, 1894.*

Captain Sumner, commander *Columbia*, telegraphs from Jamaica he is informed British Government has notified Chief Clarence at that place it will not recognize Nicaraguan commissioner in Mosquito, and to hold himself in readiness to be taken to Bluefields. This information not consistent with what the Earl of Kimberley told you, and is not credited here.

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*Mr. Bayard to Mr. Gresham.*

[Telegram.]

LONDON, *December 20, 1894.*

All intentions and reports of reestablishing Clarence at Bluefields denied absolutely at foreign office. Sensational attempts are apparent to create misunderstanding and misrepresent relations and intentions of the United States and Great Britain in connection with Nicaraguan affairs.

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*Mr. Bayard to Mr. Gresham.*

EMBASSY OF THE UNITED STATES,

*London, December 22, 1894.*

SIR: As related to affairs in Nicaragua, I have now the honor to inclose herewith a copy of the telegram (translated) which I received from you on the 17th instant,<sup>1</sup> and also a copy of your subsequent telegram of the 20th instant,<sup>2</sup> and of my telegraphic reply of the same date.<sup>2</sup>

I have also the honor to transmit herewith a copy of a personal note from me to the Earl of Kimberley, dated the 20th instant, and his lordship's reply thereto, dated the 21st.

The purport of the statements at the foreign office is an emphatic denial of all reports or rumors indicating any intention or disposition on the part of the British Government to mingle in the local political struggles and disorders in Nicaragua and the province of Mosquito.

As I have heretofore stated in this connection, the "formal incorporation" of the inhabitants of the Mosquito region with the rest of Nicaragua is the best and most complete solution of all doubt or qualification respecting the full sovereignty of Nicaragua over the entire coast, causing the treaty of Managua to become un fait accompli, and the Austrian award and interpretation of that instrument a superfluous and negligible quantity.

There was the most open expression of satisfaction at the foreign office upon the reported voluntary incorporation of the Indians with the rest of Nicaragua, for it was a consummation devoutly to be wished, and they were glad to be free from the subject.

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<sup>1</sup> See page 358.

<sup>2</sup> See page 359.

In my last telegram I referred to the obvious attempts, by sensational reports, to create mischievous misunderstandings between the two Governments, and my statement was founded upon the telegraphic accounts which find their way into the newspapers on both sides of the Atlantic.

\* \* \* \* \*

I have the honor to be, etc.,

T. F. BAYARD.

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[Inclosure 1.—Personal.]

DECEMBER 20, 1894.

DEAR LORD KIMBERLEY: But for the announcement in the newspapers of your absence from town for the holidays I should come this morning to show you a telegram I received just now from Secretary Gresham, stating that the commander of U. S. S. *Columbia* had telegraphed from Jamaica that he had there been informed that "Clarence," the titular head of the Mosquito tribe, had been notified to hold himself in readiness to be returned to Bluefields, and that recognition of Nicaraguan order, and the late action of the inhabitants of the Mosquito region incorporating themselves with the rest of Nicaragua, was refused by the British authorities or those representing them.

I need hardly say that Mr. Gresham naturally discredits such reports; but I would be glad to have a word from you to set them at rest authoritatively.

Believe me, etc.,

T. F. BAYARD.

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[Inclosure 2.]

KIMBERLEY HOUSE, *December 21, 1894.*

DEAR MR. BAYARD: Mr. Bertie informs me that he gave Mr. Wells, who brought your letter of yesterday to him, an answer as to the matter referred to in it.

I am very glad that you enabled us to contradict the reports in question, which have no foundation whatever.

Believe me, sincerely yours,

KIMBERLEY.

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*Mr. Guzman to Mr. Gresham.*

[Translation.]

NICARAGUAN LEGATION,  
*Washington, December 28, 1894.*

SIR: I have the honor to transmit to your excellency a copy of the resolution passed November 20, last, by the Mosquitia convention, composed of delegates from all the native tribes of the region called the Reserve, and which from the present date will be known by the name of "Department Zelaya."

As your excellency will observe, the convention resolved, freely and spontaneously, the absolute incorporation of that territory in the Republic of Nicaragua, recognizing the constitution of that Republic in a decisive and formal manner, in doing which they did no more than carry out the provisions of article 4 of the treaty of January, 1860, between Nicaragua and Great Britain, generally known under the name



of the "treaty of Managua," in which it was provided, as was proper, that nothing should prevent, at any future time, the Mosquito Indians from carrying out the aforesaid incorporation and becoming subject to the laws and general regulations of the Republic, in place of being governed by their own customs and laws.

This decision of the Mosquito delegates puts an end to the difficulties which existed in that portion of the Nicaraguan territory, and at the same time renders impossible, in future, any attempt to ignore the recognition of the absolute sovereignty of Nicaragua over the region formerly called "Mosquitia," seeing that, in view of the resolutions of the natives themselves, no pretext at all can be found for such a procedure.

I take pleasure in assuring your excellency that Nicaragua highly appreciates the kind and opportune action of the Government of the United States during the difficulties to which I have referred, and that she recognizes how powerfully that action has contributed to the happy and final settlement of the question.

On my own part, I desire to render to your excellency personally my most sincere thanks for the friendly interest which you have always been pleased to show me in the said matter, thus contributing in an efficient manner to bring the affair to a satisfactory conclusion.

With all consideration, etc.,

H. GUZMAN.

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[Inclosure.—Translation.]

*The Mosquito convention.*

Whereas the change which took place on the 12th of February of the present year was due to the efforts of the Nicaraguan authorities to endeavor to free us from the slavery in which we were;

Whereas we have agreed wholly to submit to the laws and authorities of Nicaragua for the purpose of forming part of their political and administrative organization;

Whereas the lack of a respectable and legitimate government is always the cause of calamity to a people, in which condition we have been for so long a time;

Whereas one of the reasons of the backward condition in which we live doubtless was the improper use of the revenues of the Mosquito territory, which were employed for purposes which had nothing to do with good administrative order;

Whereas although the constitution of Nicaragua provides for all the necessities and aspirations of a free people, we, nevertheless, desire to retain special privileges in accord with our customs and our racial disposition.

In virtue of all the foregoing, in the exercise of a natural right, and of our own free will, we hereby declare and

DECREE.

ART. 1. The constitution of Nicaragua and its laws shall be obeyed by the Mosquito people who shall be under the protection of the flag of the Republic.

ART. 2. All revenues that may be produced by the Mosquito shore district shall be invested for the benefit of that district, and we reserve our own financial autonomy; but the said revenues shall be collected

and administered by the officers of the treasury of the supreme Government.

ART. 3. Natives shall be exempt from all military service in time of peace and war.

ART. 4. No tax shall be levied upon the persons of Mosquitoes.

ART. 5. The right of suffrage shall be enjoyed by both males and females who are more than eighteen years old.

ART. 6. The native communities shall be under the immediate control of the inspecting chief and of the alcaldes and police officers in their respective localities.

ART. 7. None but Mosquito Indians shall be elected to fill the said offices.

ART. 8. Alcaldes and police officers shall hold their positions so long as they shall enjoy the confidence of the people, but they may be removed by order of the intendant or by popular motion.

ART. 9. When the alcaldes and police officers enter upon the duties of their offices, the chief inspector shall administer the oath of office to them, for which purpose he shall make use of the following form: "Do you swear by God and the Bible to exert yourself in behalf of the happiness of the people that have elected you, and to obey and execute the laws of Nicaragua?" The person to whom this question is addressed shall reply, "Yes, I swear."

ART. 10. The people shall promulgate their local regulations in assemblies over which the chief shall preside, and such regulations shall be submitted for approval to the superior authority of the national Government on the coast.

ART. 11. In token of gratitude to General I. Santos Zelaya, the President of the Republic, to whose efforts we owe (enjoy) the privilege of enjoying our liberty, the district which has heretofore been known as the Mosquito Reservation shall henceforth be called the Department of Zelaya.

Done in the hall of sessions of the Mosquito convention this 20th day of November, one thousand eight hundred and ninety-four.

The signatures of the delegates follow with this authentication: "The undersigned hereby certify that they were present at the session of the Mosquito assembly in which the foregoing decree was adopted, which decree was promulgated by the unanimous consent of the representatives above named, who, being unable to write, have accepted our certificate. B. B. Seat, U. S. consular agent; J. Wienberger, alcalde of the city of Bluefields; Sam. Weill, mayor; A. Aubert, treasurer-general."

R. CABEZAS,

*Intendant-General of the Atlantic Coast of Nicaragua.*

Before me,

JOSÉ MARIA MONGRIO,  
*Secretary of the Intendant's Office.*

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*Mr. Gresham to Mr. Bayard.*

DEPARTMENT OF STATE,  
*Washington, December 31, 1894.*

SIR: I have received your dispatch of the 22d instant, confirming your telegraphic denial, on Lord Kimberley's explicit authority, of the rumors of intended British intervention in Nicaragua and the sup-

posed purpose to countenance the restoration of the Mosquito Indian régime under Clarence.

Your present dispatch amplifies the assurance you had already obtained at the foreign office, as reported in yours of November 27, that the voluntary incorporation of the Mosquito Indians into the Republic of Nicaragua would be a welcome and final solution of the problem of Mosquitia.

I inclose for your information in this regard translation of a note addressed to me by the Nicaraguan minister<sup>1</sup> here on the 28th instant, communicating text of the instrument by which those Indians have become incorporated into the Republic and subject to its general laws, with reservation of certain defined privileges, as well as a copy of my reply to Dr. Guzman.<sup>2</sup>

The full Nicaraguan correspondence, covering the events of the past year, has been prepared for transmission to the Senate in answer to a resolution calling therefor, and when communicated and printed will be sent to you.

I am, etc.,

W. Q. GRESHAM.

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*Mr. Gresham to Dr. Guzman.*

DEPARTMENT OF STATE,  
*Washington, December 31, 1894.*

SIR: I have the honor to acknowledge the receipt of your note of the 28th instant, communicating to me a copy of an instrument by which the native Mosquito Indians have become incorporated into the Republic of Nicaragua and subject to its general laws.

Having already, upon information received from the United States minister at Managua and our naval commander at Bluefields, as well as from yourself, orally expressed my satisfaction at this outcome of a situation which for nearly a year has demanded careful consideration, I take this opportunity to state the gratification it affords this Government to see the voluntary and orderly accomplishment of this important step by the native Mosquito Indians themselves.

Accept, etc.,

W. Q. GRESHAM.

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<sup>1</sup> See page 360.

<sup>2</sup> See page 363.



## CLAIM OF ANTONIO MAXIMO MORA.\*

*Mr. Curry to Mr. Bayard.*

No. 76.]

LEGATION OF THE UNITED STATES,  
*Madrid, July 9, 1886. (Received July 26.)*

SIR: The Cuban embargoed-estate claims have been a source of much labor and annoyance. The particular claim of Antonio Maximo Mora has elicited memorials, testimony, arguments, instructions, dispatches, and notes sufficient to fill a large folio volume. On May 3, 1883, after the United States and Spanish Commission had closed their labors, instructions were issued to this legation to present the case of Mora anew and, in view of its intrinsic importance and the lapse of time since the original seizure of the property, to secure, if possible, an early consideration and payment. A strong note was presented on the 4th of July, 1883, but the records of this legation show no departure from the chronic habit of postponement and delay. The case and papers were probably "pigeon-holed" until "mañana" should arrive.

In No. 28 of January 22, 1886, fresh instructions were presented with injunctions to "press" the claim. The wish of the Department has been followed literally. Orally and in writing, arguments and energy have been put forth, as opportunity offered or could be made. The Spanish Government has felt reluctant to make itself pecuniarily responsible for the bad conduct of remote officials, and has looked with suspicion upon the claims for restoration of property, or indemnity, made by persons who, it is alleged, had become American citizens to shelter themselves under that ægis, and thus stimulate more effectively and with impunity the insurrectionary spirit that prevailed in the Island of Cuba. Impecuniosity has coerced or increased an unwillingness to assume liabilities with which the home Government had no immediate connection and no responsibility beyond what grows out of the general liability of principal for the acts of agent.

The policy of concentrating instead of diffusing effort, sustained by unflagging diligence, has borne early fruit. The letter of Minister Moret, of which a copy and a translation are inclosed, is a distinct and unequivocal agreement to pay what will represent an equitable indemnity for the value of the property of which Mr. Mora has been dispossessed. My reply to this satisfactory note is inclosed.

Soon I asked for the conference which the minister suggested in order to agree upon the amount of the indemnity. As the late treaty between Spain and Great Britain is under discussion in the Cortes, the minister of state, to expedite a settlement, appointed two sub-secretaries to act for him. On the 5th instant I repaired, in company with the secretary of legation, to the office of the minister. The sub-secretaries met us and we entered upon the conference. To their suggestion that formal and

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\* Reprinted from Sen. Ex. Doc. No. 175 Fifty-second Congress, first session; Sen. Ex. Doc. No. 115, Fifty-third Congress, second session, and Sen. Ex. Doc. No. 10, Fifty-third Congress, third session.

reliable proof was needed to sustain the specifications and that reference must be had to the consul-general, I replied that the claim had been pending for sixteen years, that the note of the secretary was full acknowledgment of Spain's obligation and willingness to pay, and that the demand for other documents seemingly looked to a prolongation for another sixteen years. The secretaries protested against such a construction, stated that the note sent to me had been approved by Mr. Mores's colleagues, and, that there might be an adjustment of the matter, asked me to mention a sum which would be accepted in liquidation of the claim. I mentioned \$1,800,000. We were informed that the proposition would be submitted to the minister and an early reply was promised. As yet we have no sign of acceptance or rejection. The old Romans in *Carpe diem* confirmed a Christian duty. Spaniards seem not to have learned that the present ever is; the future never is.

I commit, during my needed vacation (for the experiences of the last few months have kept me in a strain of nervous inquietude and mental excitement) the further prosecution of this case, under the unequivocal promise made, to Mr. Strobel, with fullest confidence. It may become necessary, in order to leave no loop to hang a doubt upon, to apply to the Department for the original documents, or authenticated copies of them, on which instructions No. 3, May 3, 1883, were issued to this legation.

I have, etc.,

J. L. M. CURRY.

[Inclosure 1, in No. 76.—Translation.]

*Señor Moret to Mr. Curry.*

MINISTRY OF STATE,  
Palace, June 30, 1886.

MY DEAR SIR: The claims which your legation has made against the Spanish Government relative to the embargoed property in the Island of Cuba of Messrs. Antonio Maximo Mora and D. José Maria Mora, have deserved for sometime the most friendly consideration from the Spanish Government.

If the definite orders sent to the captain-general of Cuba for the return of the embargoed property have not been complied with until the present time, it is due to the peculiar occurrences that have taken place in that island, as well as to the legal difficulties that have appeared to prevent the return of the property.

This combination of circumstances, and the time which has elapsed, make at this day the strict accomplishment of the order impossible; that is, the restoration of the property, but as the Spanish Government desires to give one proof more of its consideration for the Government of the United States, and for your excellency who so worthily represents it, it has not hesitated to propose the payment of a sum of money which will represent an equitable indemnity for the value of said property.

If your excellency, therefore, accepts this proposition, we can by mutual agreement fix upon the amount of the indemnity in view of the data and facts which are shown in the documents of the case, after which the minister of the colonies can include in his budget the sum upon which we have agreed, if, from the analogous questions pending between both nations, there should not result some more expeditious means of immediate payment to the claimants, on the express condition that they shall renounce any further claim for the embargo of their property and for everything that bears any relation with it.

I renew, etc.,

S. MORET.

MINISTER PLENIPOTENTIARY OF THE UNITED STATES.

[Inclosure 2 in No. 76.]

*Mr. Curry to Señor Moret.*

LEGATION OF THE UNITED STATES,  
Madrid, July 1, 1886.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of yesterday, informing me that as a result of events in the Island of Cuba, of legal difficulties that have arisen, and of the lapse of time since its embargo, it would



be impossible for the Government of Spain to give effect to the order restoring the property of the American citizen Antonio Maximo Mora, but proposing the payment of a sum of money which will represent an equitable indemnity for the losses sustained by him.

It gives me much pleasure to state that the Government of the United States accepts a proposition so in harmony with justice and to inform your excellency that I am ready, at any moment, to confer with your excellency upon the amount of the indemnity. In view of the exalted sense of justice and honor shown by the Government of Her Majesty in regard to this matter and the full data, referred to by your excellency, as existing in the documents of the case, I am confident we can arrive at an immediate and satisfactory conclusion in time, as your excellency thoughtfully suggests, to include the amount in the budget of his excellency the minister of Ultramar. The amount of indemnity agreed upon and paid will be accepted by the Government of the United States as a full discharge of all demand against the Government of Spain as growing out of this claim.

In this connection I can not withhold the expression of the high appreciation of this action of the Spanish Government as felt by myself, and that will be felt, as soon as I shall have the pleasure of communicating your official note, by the Government of the United States, a feeling produced, not only by the just decision of Her Majesty's Government, but also by the generous interest which your excellency has personally exhibited in the settlement of this wearisome question and of all contentions that interfere with the most perfect accord between our respective governments.

I take advantage of this opportunity to renew to your excellency the assurances of my most distinguished consideration.

J. L. M. CURRY.

His Excellency S. MORET.

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*Mr. Curry to Mr. Bayard.*

No. 136.]

LEGATION OF THE UNITED STATES,  
*Madrid, October 23, 1886.* (Received November 6.)

SIR: I have the honor to inclose a note which I addressed to the minister of state. In Mr. Strobel's 112, September 8, 1886, he reported ineffectual efforts to secure a fulfillment of a positive promise. In an unofficial note of 20th instant Mr. Moret says, "I am sorry to say the Mora case can not go further without the settlement of our commercial troubles. My colleague objects strongly to it."

I have, etc.,

J. L. M. CURRY.

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[Inclosure 1 in No. 136.]

*Mr. Curry to Señor Moret.*

LEGATION OF THE UNITED STATES,  
*Madrid, October 12, 1886.*

EXCELLENCY: On June 30 last you kindly sent me a note, saying "the Spanish Government" has not "hesitated," in the case of the claim of Antonio Maximo Mora, in proposing the delivery of an amount in cash which may represent an equitable indemnity of the value of that property. You further said if I accepted the proposition we shall be able to fix by mutual agreement the amount of the indemnity, in view of the facts and antecedents which already exist in the papers, after which the minister of the colonies shall be able to include in his budget the sum we may have agreed upon. Promptly, on the part of the Government of the United States, I accepted the proposition. More than three months have elapsed, and, so far as this legation has knowledge, no progress has been made in agreeing upon the "equitable indemnity," although the representative of the United States has, for that purpose, held himself entirely "at the disposition" of your excellency.

For sixteen years the unfortunate citizen of the United States has suffered from the spoliation of his property. The weary years have dragged their slow length along, while he has been impoverished and crushed. As there is a limit to human patience, so it would seem there should be a limit to the negotiations connected with this claim. Every principle, essential and non-essential, involved in the claim has



been adjudicated by the Government of Spain. Nothing remains except to agree on the equitable indemnity and to pay the money. May I not ask your excellency, in justice to a man whom the Government has repeatedly admitted that the Cuban authorities grossly wronged, to give this matter prompt and decisive attention?

Receive, etc.,

J. L. M. CURRY.

*Mr. Curry to Mr. Bayard.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
*Madrid, November 30, 1886.*

This Government offers \$1,500,000 in full settlement of the claim of Mora. Will be charged on Cuban budget of next year. Shall I accept with authority to arrange details of payment?

CURRY.

*Mr. Curry to Mr. Bayard.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
*Madrid, December 2, 1886.*

Mr. Curry asks whether the amount mentioned in his telegram regarding the Mora claim is acceptable. If so, he thinks it important to bring the matter to an immediate close.

*Messrs. Shipman, Barlow, Larocque & Choate to Mr. Bayard.*

NEW YORK, *December 3, 1886.*

SIR: We acknowledge with many thanks your telegram of the 1st instant, announcing the fact that "\$1,500,000, to be charged, on Cuban budget of next year, offered in full settlement of Mora claim," which sum, while it is not equal to Mr. Mora's just claims against Spain, will be accepted by him most gratefully, if this offer is meant to carry with it the certainty of payment.

But he informs us that in other similar cases the agreement to pay out of the Cuban budget has resulted in nothing beyond a liquidation of the amount due, and that payments have been long delayed or avoided.

He therefore asks us to say that he will accept the proposition to fix the amount due to him at \$1,500,000, but asks that this liquidated sum be paid in Washington.

Again thanking you on behalf of Mr. Mora for the good offices of our Government so effectively rendered in his behalf,

We are, sir, etc.,

SHIPMAN, BARLOW, LAROCQUE & CHOATE.

*Mr. Bayard to Mr. Curry.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, December 6, 1886.*

Spanish offer in Mora case accepted.

BAYARD.

*Mr. Curry to Mr. Bayard.*

No. 155.]

LEGATION OF THE UNITED STATES,  
*Madrid, December 9, 1886. (Received December 27.)*

SIR: Referring to my telegram of the 30th ultimo, reporting that the Spanish Government had offered \$1,500,000 in settlement of the claim of Antonio Maximo Mora, to be charged upon the Cuban budget of next year, with details of payment to be arranged, I have the honor to state that I received on the 7th instant your telegram in reply, and have notified the minister of state of the acceptance of the offer by the Government of the United States. I beg leave to inclose copies and translations of the correspondence with the Spanish Government in reference to the subject, as well as of the telegrams exchanged with the Department.

I have, etc.,

J. L. M. CURRY.

[Inclosure 1 in No. 155.—Translation.]

*Señor Moret to Mr. Curry.*MINISTRY OF FOREIGN AFFAIRS,  
*Palace, November 29, 1886.*

MY DEAR SIR: In reply to the note of your excellency, dated the 20th instant, referring to the settlement of the subject which we know by the name of the Mora claims, I have the honor to inform your excellency that the council of ministers has been occupied in detail with the matter, and animated by the desire of fulfilling the engagements formerly contracted and of responding to the claims of the United States, has decided upon the following terms of settlement, of which I have the honor of informing your excellency:

(1) To fix as a definite amount of the value of the embargoed property of Messrs. Mora, which the Government decided to return in 1873 and 1876 the sum of \$1,500,000. In this sum is included all indemnity that can be claimed for the principal as well as interest, damages, and injury.

(2) The sum to be paid by a charge upon the Cuban budget and the minister of Ultramar will propose to the Cortes the means of payment in the next budget of 1887-'88.

I must add that as the colonial budget is not in a condition to support at one time the considerable sum of \$1,500,000, especially after the arrangement just made for the payment of the debt and outstanding obligations, the Government has naturally reserved the determination of the most practicable method of paying the amount, of which I shall have occasion to give to your excellency due information.

If your excellency, as I hope, will find these conclusions to be just and will be good enough to express to me your assent to them, we can consider as terminated a matter which your excellency aptly qualifies as protracted and annoying to both governments, on the express condition, as I have already had the honor of informing you in my note of June 30 last, that the Messrs. Mora and the Government of the United States in their name shall renounce all further claim for the embargo of their property and everything concerned therewith.

I avail myself of this occasion to renew to your excellency the assurances of my most distinguished consideration.

S. MORET.

THE MINISTER PLENIPOTENTIARY OF THE UNITED STATES.

[Inclosure 2 in No. 155.]

*Mr. Curry to Señor Moret.*LEGATION OF THE UNITED STATES,  
*Madrid, December 7, 1886.*

EXCELLENCY: In reply to your excellency's note of the 29th ultimo, offering the amount of \$1,500,000 in settlement of the claim presented by this legation to the Government of Spain in behalf of the American citizen Antonio Maximo Mora, for the

embargo of his property in Cuba, I have the honor to state that I have communicated with my Government in regard to the matter, and have been informed that the above offer is accepted by it. I also take pleasure in repeating the statement made in the note which I had the honor to send to your excellency on July 1 last, that the amount of indemnity agreed upon and paid will be accepted by my Government as a full discharge of all demand against the Government of Spain growing out of the claim of this citizen of the United States.

While expressing to your excellency the gratification felt by the United States Government at an action so much in accordance with the well known sense of honor of the Government of Her Majesty, I beg to inform your excellency that I am ready at any moment, as your excellency suggests, to arrange the details of payment in order that this question, which your excellency admits to have been tedious and annoying, may, as soon as possible, be finally removed from the consideration of both governments.

I avail myself of this occasion to renew to your excellency the assurances of my most distinguished consideration.

J. L. M. CURRY.

His Excellency S. MORET, etc.

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*Mr. Mora to Mr. Bayard.*

WASHINGTON, D. C., September 10, 1887.

SIR: As I understand that the Government of Spain will pay to our distinguished minister at Madrid, the Hon. Mr. Curry, as agreed in November, 1886, the amount fixed as due to me in satisfaction of my claim, and that the payment will take place as soon as the Cortes re-assemble, and the colonial appropriation bill, or budget, is passed, and the Spanish Government raises under the authority of the said budget the necessary funds, I now have the honor to request that the proper instructions be transmitted to the aforesaid distinguished minister, Mr. Curry, to the effect that whatever moneys he may receive from the Spanish Government in satisfaction of my claim be wholly transmitted by him in the usual way to your Department, in order that here and nowhere else, and by this Department and by no one else, the said moneys be in due time delivered to me.

This is the way in which all previous payments have always been made, and it is the simplest and the best in every respect.

I also desire to state that in case that the Spanish Government should fail to comply with its engagement of November, 1886, and the money is not paid, or is not paid in due time, I consider myself to be entitled to claim for interests.

I am, etc.,

ANTONIO MMO. MORA.

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*Messrs. Shipman, Barlow, Larocque and Choate to Mr. Bayard.*

NEW YORK, March 7, 1888.

SIR: Our client, Mr. Mora, is very much alarmed by the remarks of Señor Moret, in the Spanish Cortes, in which he seems to assume that this case is still open and subject to the action of the Cortes, and further that no money will be required for this claim, as it may be offset in some form against similar claims of Spanish subjects against the United States. This view is so contrary to the facts as we understand them that we take the liberty of asking if you have any information from Mr. Curry that warrants the explanation given by Señor Moret to the Cortes.



We understand that the Mora case is not only settled, but that there is a distinct promise to pay the compromise sum, which, according to Señor Moret's explanation to the Cortes was for much less than was really due to Mr. Mora, and we do not understand that any agreement to be made with Spain, touching other mutual claims would, or could, alter the status of the Mora case or postpone the time for its payment.

We shall be very glad to learn from you that Mr. Mora's anxieties are without foundation, as to remit this case in any form to the contingencies of another commission and then probably to an appropriation by our Congress, would be, in so far as he is personally concerned, a practical denial of justice; and were are, sir, etc.

SHIPMAN, BARLOW, LAROCQUE AND CHOATE,  
Counsel for A. M. Mora.

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*Mr. Rives to Messrs. Shipman, Barlow, Larocque and Choate.*

DEPARTMENT OF STATE,  
Washington, March 12, 1888.

GENTLEMEN: In response to your letter of the 7th instant, in relation to the claim of Antonio Mora against the Government of Spain, I have to say that the Department has not made to nor accepted from the Spanish Government any proposition to offset that claim against similar claims of Spanish subjects against the United States.

I am, etc.,

G. L. RIVES,  
Assistant Secretary.

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*Mr. Bayard to Mr. Curry.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, April 21, 1888.

Has Cuban budget been presented to the Cortes, and does it contain Mora claim?

BAYARD.

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*Mr. Curry to Mr. Bayard.*

No. 315.]

LEGATION OF THE UNITED STATES,  
Madrid, April 25, 1888. (Received May 7.)

SIR: On the evening of the 21st instant I had the honor to receive from you the following telegram: "Has Cuban budget been presented to the Cortes, and does it include Mora claim?"

The Cuban budget was published officially in the Gaceta of the 19th instant, and contained no provision for or allusion to the Mora claim. On receiving the telegram I immediately requested an interview of Señor Moret, which he fixed for the afternoon of the 24th. On the 23d I, therefore, telegraphed you as follows:

"Budget presented without any mention of the claim. Interview with the minister for foreign affairs to-morrow."

I saw Sr. Moret on yesterday afternoon, as agreed. The substance of the reasons stated by him for not executing the agreement to place an appropriation in the budget was, that after the debate reported in my No. 310 of the 2d instant, and in the present temper of the House of Deputies on the question, the presentation of the claim at this time would simply invite defeat.

As I am impressed with a belief in the unprofitable character of verbal declarations on the question, instead of discussing the matter at length, I placed a note, a copy of which is inclosed, in the hands of the minister of state, and requested him to make an official statement in reply, of his reasons, accounting for the absence of the claim from the budget, and of his intentions in reference to it, in order that I might as soon as possible report his explanations to my Government, which was deeply concerned about the matter. This he promised to do promptly.

I have, etc.,

J. L. M. CUREY.

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[Inclosure in No. 315.]

*Mr. Curry to Señor Moret.*

LEGATION OF THE UNITED STATES,  
*Madrid, April 24, 1888.*

EXCELLENCY: I have the honor to state that it is with some surprise and regret that I have failed to discover in the Cuban budget, as published in the "Gaceta" of the 19th instant, any provision for the payment of the sum as agreed upon by our respective governments for the liquidation of the claim of Antonio Maximo Mora. In the note of your excellency of 29th November, 1886, communicating the decision the council of ministers, it was definitely declared that the sum to be paid to the Government of the United States in full indemnity for the "principal" of the claim of said Mora as well as for damages and injury sustained by him, was to be charged on the Cuban budget for 1887-1888. This specific proposition the Government of the United States was asked to accept as a termination of a "protracted and annoying" controversy between the two governments, and the acceptance of my government I had the honor to communicate to your excellency in my note of December 7, 1886. In subsequent notes of December 15, 1887, and March 5, 1888, I had occasion to emphasize the fact that this agreement, by the terms of the settlement was unembarrassed by any complication with other claims or matters of contention.

The Government of the United States has no desire to interfere with, or modify, the settlement agreed upon by the two governments, or to lessen the discretion or liberty reserved by the Government of Spain as "to the determination of the most practical method of paying the amount" stipulated, but, while relying implicitly on the good faith of the Government of which your excellency is a distinguished minister, the Government of the United States may suggest that, according to the well-known precedents in reference to budgets, this would seem to be the last for Cuba during the years 1887 and 1888.

Your excellency, I am well satisfied, will have pleasure in giving me such facts and assurances from your Government as will enable me to dispel any apprehensions which may have been created by the omission to which I have ventured to invite your excellency's attention.

I avail myself of this occasion to renew the expressions of my most distinguished consideration.

J. L. M. CURRY.

Excmo. Señor D. S. MORET.

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*Mr. Curry to Mr. Bayard.*

No. 320.]

LEGATION OF THE UNITED STATES,  
*Madrid, May 14, 1888. (Received May 26.)*

SIR: In my 315 of April 25 I had the honor to inclose a copy of a note addressed to the minister of foreign affairs, expressing surprise and regret at the non-inclusion of the Mora claim in the then recently-

presented Cuban budget. I now have the honor to inclose his reply to my note and a translation thereof, and also my acknowledgment of the note. The reply of Mr. Moret may or may not be satisfactory, according to the standpoint from which it is viewed. Construed in one sense it may not involve delay in the payment of the indemnity beyond what was stipulated in the agreement. How far a fear of an adverse vote in the congress or of a ministerial crisis in the event of a defeat on the proposition to pay may operate on the ministry and control their future action is a matter of conjecture. Obviously the Government of the United States can not regard their acceptance of the proposition to indemnify Mora by the payment of \$1,500,000 other than as a solemn and completed agreement, made not with a minister but with the Government.

I have, etc.,

J. L. M. CURRY.

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[Inclosure 1 in No. 320—Translation.]

*Señor Moret to Mr. Curry.*

MINISTRY OF STATE, *Palace, May 12, 1888.*

EXCELLENCY: In reply to the dispatch which you were good enough to address to me on April 24, I have the honor to inform you that the Government did not introduce into the budget of the island of Cuba the article inserted in the budget of last year for the execution of what was agreed upon with your Government, in reference to the indemnities of American subjects (citizens), nor has it introduced any new clause for that purpose for the reasons which I hope your excellency will appreciate at their full value.

The Government has been obliged before everything to pay attention to the result of the discussion in the Congress of Deputies during the months of December and January. The result of this long and minute debate was the conviction that the Chamber (House) was not disposed to sanction what had been done by the Government, unless the totality of the American claims was settled and liquidated, so that there might be a definite disposal both of the claims held by the United States against Spain which have been the subject of our negotiations, and of those held by Spain against the United States which are being negotiated in Washington.

Given this situation (state of the case), and the opinion expressed by the different groups of the House, the reproduction of that measure, with the completeness (of detail) required by the Parliament, would have assuredly provoked a negative vote of the House, prejudicial to the very purposes which inspired the note of your excellency which I have the honor of answering.

On the other hand, as the proposition made to me by your excellency on the 15th of December last is in the way of discussion (is well on towards discussion) proposition in which the Government of the United States as a consequence of our negotiations formulated the basis of a general arrangement which should terminate all the claims existing between the two Governments, and, as authorized by your excellency for the purpose, I have reported it to the Congress, it would not be prudent to ask for the appropriation necessary for paying the claim of Antonio Maximo Mora, without accompanying it by some analogous and reciprocal resolution in reference to the totality of the claims, sufficient to terminate the question entirely.

The urgency of the parliamentary business with which I have had to occupy myself has prevented my replying to the note referred to. I shall have the honor of doing so within a very few days.

It is likewise my duty to add that for the purposes indicated it is of no importance nor is there any obstruction in the fact that the clause referred to by your excellency has not been entered in the budget of Cuba, because the Government can at any time present a project of law (bill) to the Chambers and ask for the means necessary for the purpose.

On terminating in this manner the reply to your note of April 24, I desire in every way to make it evident that the Government neither proposes nor assumes to alter in anything what has been agreed upon with the Government of the United States, but for the very reason that it respects scrupulously its engagements, it must appreciate the manner and the moment in which, considering the parliamentary antecedents



of the question, it may be most opportune to propose a resolution to the Congress with probability of success. Being assured that in any other way any resolution which has not the generic and total character which I have indicated would be rejected in the Congress, the Government could not expose itself to a refusal, which would complicate and prolong the question, instead of terminating it for the good of both countries and in the manner desired by both.

I trust that these considerations will completely satisfy your excellency and will give to your Government the assurance that the Government of the Queen Regent does not modify nor alter the attitude adopted on this subject.

I gladly avail myself of this opportunity to reiterate to your excellency the assurances of my highest consideration.

S. MORET.

To the MINISTER PLENIPOTENTIARY OF THE UNITED STATES.

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[Inclosure 21 in No. 320.]

*Mr. Curry to Señor Moret.*

LEGATION OF THE UNITED STATES,  
*Madrid, May 14, 1888.*

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of the 12th instant, in which with much kindness you explain why the Government of Spain did not introduce into the Cuban budget an article for "the execution of what was agreed upon" with the Government of the United States in reference to the indemnity of Antonio Maximo Mora.

My notes of December 15, 1887, of March 5, 1888, and of April 24, 1888, make it unnecessary to enter into any review of the agreement, about which there seems to be no difference of opinion between the two Governments. What your excellency is pleased to say in reference to "some analogous and reciprocal resolution in reference to the totality of the claims," held respectively by Spanish and American citizens, is a matter of parliamentary procedure, of administrative policy with which the Government of the United States has no right to interfere, nor any disposition to make a suggestion. The Government of the United States will observe with peculiar satisfaction that there is no "obstruction" to the execution of the agreement between the two Governments "in the fact that the clause referred to" in my note "has not been entered in the budget of Cuba because the Government can at any time present a project of law to the Chambers and ask for the means necessary for the same."

That the Government "neither proposes nor assumes to alter in anything what has been agreed upon with the United States" is what any one familiar with the exalted character of the Spanish Government would have readily foreseen. The conscientiousness of your excellency, the consistency of all your utterances in connection with this agreement, the fidelity of the Government to its engagements, enable me, with much cheerfulness to comply with your excellency's request to give to my Government "the assurance that the Government of the Queen Regent does not modify nor alter the attitude adopted on this subject."

Your excellency's note will be communicated promptly to the Government at Washington, and I gladly seize this new opportunity of renewing to your excellency the assurances of my most distinguished consideration.

J. L. M. CURRY.

Exemo. Señor D. S. MORET, etc.

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*Mr. Rives to Mr. Curry.*

No. 305.]

DEPARTMENT OF STATE,  
*Washington, June 23, 1888.*

SIR: Since the reception of your dispatch No. 320 of the 14th ultimo, inclosing copy of a note from Mr. Moret in explanation of the delay in the payment of the Mora claim, the Department has been informed of the transfer of that minister from the ministry of foreign affairs to that of the interior, and of the assumption of the duties of the former office by another.

The purport of Mr. Moret's note appears to be that, while the Government of Spain intends fully to comply with its engagement in the case of Mora, yet circumstances, as stated by him, temporarily delayed payment of the sum agreed upon until a more favorable moment.

The Department notes with satisfaction that its confidence that the Spanish Government would not repudiate the arrangement which was deliberately concluded in its name and by its authority has not been misplaced. Yet it is regretted that delay in the payment of the sum agreed upon should be thought necessary, since this Government is desirous of avoiding the necessity of claiming interest, in accordance with international usage, on the sum thus admitted to be due, which it can not but regard as withheld by the Government of Spain for its own convenience.

In regard to Mr. Moret's reference to the necessity of submitting a comprehensive plan for the mutual adjustment of claims between the United States and Spain to the Cortes, when the payment of the Mora claim is asked for from that body, it is proper to say that the force of this suggestion is not unheeded by the Department and was anticipated, when, under its instructions, you presented such a plan to Mr. Moret on the 15th of December last. No objection to it has so far been received which was sufficiently definite to admit of consideration.

Mr. de Muruaga referred to it in one or two communications as lacking in reciprocity. But the Department has so far failed to receive any reply to its request for more specific objections, which it declared itself ready to meet in a liberal spirit whenever they shall have been formulated.

I am, etc.,

G. L. RIVES,  
Acting Secretary.

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*Mr. Strobel to Mr. Bayard.*

No. 315.]

LEGATION OF THE UNITED STATES,  
Madrid, August 9, 1888. (Received August 25.)

SIR: It seemed to Mr. Curry advisable to present to the new minister of state a summary of the negotiations which had taken place with Señor Moret in reference to the case of A. M. Mora, resulting in the promise of the Spanish Government to pay the claims, and a note containing such summary, a copy of which is inclosed, was addressed to the Marquis de la Vega de Armijo on June 30 last.

I now have the honor to inclose copy and translation of the reply of the minister of state. It seems clear from the terms of his note that the claim on its merits is admitted to be *res adjudicata*. The explanation of failing to pay is the same as is given in Señor Moret's note of May 12 last, which was sent to the Department in Mr. Curry's 320 of May 14 last, and rests on the declaration that it would be impossible in the present state of public opinion on the subject to secure the necessary appropriation from the Cortes without accompanying the proposition with an arrangement for the final disposal of all claims pending between the two Governments.

In view of the readiness expressed in the note to proceed to such an arrangement, and of the references in the Department's No. 305 of June 23 to the failure of the Spanish Government to raise any specific objections to the proposed agreement submitted by Mr. Curry to Señor



Moret on December 15, 1887, it may not be improper for the legation to attempt to extract from the minister of state why, if the payment of the Mora case, despite the anxiety of the Government to dispose of it, is blocked by the other claims, no reply has been made to the propositions of the United States, and when the Spanish Government intends to forsake its present meditative attitude towards that proposition by either accepting it or by making counter proposals on its own side.

I have, etc.,

EDWARD H. STROBEL.

[Inclosure 1 in No. 345.]

*Mr. Curry to the Marquis de la Vega.*

LEGATION OF THE UNITED STATES,  
Madrid, June 30, 1888.

**EXCELLENCY:** I have the honor to invite the attention of your excellency to the status of the claim of Antonio Maximo Mora, which was originally presented to the Spanish Government on the 2d of June, 1883, at the time when your excellency was in charge of the ministry over which you so worthily preside.

It is unnecessary for me to refer to the correspondence and to the different stages of the negotiations which preceded the note of your excellency's distinguished predecessor, Señor Moret, of the date of June 30, 1888, which, after explaining the impossibility of returning the property itself, stated that "deseando el Gobierno español dar una prueba más de consideración al Gobierno de los Estados Unidos y á V. E. que tan dignamente lo representa, no vacile en proponer la entrega de una cantidad en metalico que represente una equitativa indemnización del valor de aquellos bienes." (As the Spanish Government desires to give one proof more of its consideration for the Government of the United States and for your excellency, who so worthily represents it, it has not hesitated to propose the delivery of a sum of money which will represent an equitable indemnity for the value of said property.)

A prompt response was made by this legation on the following day, July 1, accepting the above proposition.

It is also needless to trace the different steps in the further negotiations which had for their object a just estimate of the value of the property, and which led to the note of Señor Moret of November 29, 1886, containing the following statements and propositions:

"El consejo de Ministros se ha ocupado detenidamente del asunto, y animado del deseo de satisfacer los compromisos anteriormente contraidos y de corresponder á las reclamaciones del Gobierno de los Estados Unidos, ha tomado las siguientes resoluciones que tengo el honor de participar á V. E.:

"1.ª. Fijar como cifra definitiva del valor de los bienes embargados á los Sres. Mora que el Gobierno decidió devolver en 1873 y 1876, la suma de 1,500,000 duros en la cual se comprende la indemnización de cuanto puedan reclamar tanto por capital como por intereses y daños y perjuicios.

"2.ª. Pagar esta suma con cargo al Presupuesto de Cuba para lo cual el Ministro de Ultramar propondra a las Cortes en el proximo presupuesto de 1887-88 los medios de satisfacerla." The (Council of Ministers has been occupied in detail with the matter, and, animated of the desire of fulfilling the engagement formerly contracted and of responding to the claims of the United States, has decided upon the following terms of settlement, of which I have the honor of informing your excellency.

(1) To fix as a definite amount of the value of the embargoed property of Messrs. Mora which the Government decided to return in 1873 and 1876 the sum of \$1,500,000. In this sum is included all indemnity that can be claimed for the principal as well as interest, damages, and injury.

(2) The sum to be paid by a charge upon the Cuban budget and the minister of ultramar will propose to the Cortes the means of payment in the next budget of 1887-1888.

On December 7, the legation replied to the above note, agreeing to accept the sum offered in full discharge of the claim.

In view of the above correspondence the Government of the United States naturally believed that the Mora case was definitely settled, and looked forward with confidence to a provision for its payment in the Cuban budget of 1887-1888.

The Cortes adjourned without having passed this budget. The report of the committee, however, without referring particularly to this case, had a qualifying reference to the American claims in general, which, whatever application it might have to



other claims, could not, in the face of the exchange of notes to which I have referred, have any relation to the claim of Antonio Maximo Mora, and exception was taken to affect that case in the note which I had the honor to address to Señor Moret on December 15, 1887, transmitting a project of agreement for the settlement of other outstanding claims between the two Governments.

The theory that the payment of the Mora case was in some way connected with or dependent upon the payment of other claims which first appeared in the report of the above commission received further development in the speech of Señor Moret during the debate on this question of the 23d and 24th of February last. As soon as the official report was before me, I again, on the 5th of March last, took the liberty of calling the attention of Señor Moret to the fact that the correspondence between this legation and the Government of Spain on this subject clearly showed that the statement of his excellency in reference to reciprocity of payment of claims could not apply to the case of Mora. In another note of April 24 I also expressed surprise and regret at the omission of any provision for the payment of the claim from the Cuban budget as published in the *Gaceta* of the 19th of the same month.

In reply to the latter note, dated May 12, 1888, Señor Moret explained that the failure to provide in the budget for the payment of the claim was caused by the unfavorable sentiment in the Chamber of Deputies, which would have produced an unfavorable vote, but that the omission of this provision had no signification because "el Gobierno puede en cualquier momento presentar un proyecto de Ley á las Cámaras y pedirles los medios al efecto necesarios."

I have taken the liberty of making the above summary in order that your excellency may observe how important, from an international point of view, is the position occupied by this subject. By the distinct proposition of the Spanish Government to pay \$1,500,000 in full discharge of the claim, and by the distinct acceptance of this proposition on the part of the Government of the United States, the Mora case was raised from the debatable and negotiable ground which it had previously occupied to the height of an international compact binding upon both Governments. For the early and final disposal of the question the Government of the United States, therefore, relies with confidence upon the justly celebrated promptness and punctiliousness with which the Spanish Government fulfils its engagements, and awaits with interest any information which your excellency will be good enough to transmit through me as to the method and details of payment.

I gladly avail myself of this opportunity to reiterate to your excellency the assurances of my highest consideration.

J. L. M. CURRY.

His Excellency the Marquis DE LA VEGA DE ARMIJO.

[Inclosure 2 in No. 345—Translation.]

*The Marquis de la Vega to Mr. Strobel.*

MINISTRY OF STATE,  
Palace, August 7, 1888.

MY DEAR SIR: I have received the note which the minister of the United States at this court was good enough to address to me on June 30th last, in which he gives a summary of the correspondence which during the last two years has passed between the legation under his worthy charge and this ministry, relative to the claim of D. Antonio Maximo Mora, and declares the confidence felt by his Government that the Government of Her Majesty will, at an early date, adopt suitable measures for the payment of the sum to which the indemnity in the case amounts.

It does not appear to me to be necessary for the moment to enter upon an examination of the considerations set forth by your legation in the note to which I now have the honor of replying, in reference to the engagement contracted in the special case of Mr. Mora because the cabinet of which I form a part, nourishes the purpose and the desire of satisfying, as far as lies in its power, the Government which you represent.

I may be allowed to add, however, that this desire and this purpose are now as they were during the previous administration, subject to the decision of the Cortes of the Kingdom, and the clear proof of this was the inclusion in the colonial budget of 1887-1888 of the appropriation necessary for the payment of the above claim, which explicitly showed that the proposition had to be definitely submitted to the examination and approbation of the legislative bodies. This necessity was also made clear by Señor Moret whenever he handled this subject in the discussions which arose in regard to it in the congress of deputies.

My worthy predecessor, in his note of 12th of May last, explained the potent reasons which had influenced the mind of Her Majesty's Government in not reproducing in the Cuban budget of this year the provision inserted in the same the year before respecting the indemnities of American subjects. Señor Moret feared—in my judgment with a superabundance of reason—that in view of the discussion in the Congress during the months of December and January, and of the state of public opinion in reference to the subject now occupying us, the Cortes would not sanction what had been done by the Government, unless the request for the appropriation necessary to pay the sum to Mr. Mora should be accompanied by an agreement between the two Governments in reference to the whole amount of American claims, and should include the decision and settlement of these in such terms that both the claims of the United States against Spain, which have been the object of the last negotiations, and the claims presented by Spain against the Government of the United States, which are being negotiated in Washington, shall be definitely disposed of.

In view of the above facts, Her Majesty's Government hopes that the Government of the United States will facilitate the execution of what was agreed upon in the case of Mora, which, without the general settlement to which I have referred, might be rendered impossible or indefinitely postponed, in opposition to the desires of the Madrid cabinet. The bases of such a settlement were stated in the note which, with the due authorization of his Government, Mr. Curry addressed to my predecessor on December 15th of last year.

These bases, an examination of which is being made by the ministry under my charge, can serve as a starting point for said settlement, always providing that the Mora claim be included—although not discussed—and in this way be placed on the same footing as the others and be deprived of the character of priority in payment, which is the principal difficulty in the way of its approbation by the Cortes of the Kingdom.

You, with your good judgment will not fail to understand the impossibility of contending with success against the opinion of Parliament and the country, when both see that while Spain has duly paid all the claims presented by the United States, the day never comes when the claims which have for so many years been presented in their turn by Her Majesty's Government are attended to and paid. Hence there results an inequality which has no place in the rectitude and impartiality of the men who succeed each other in the Government of the Union.

The Cortes of the Kingdom, I am convinced, will not fail to vote the necessary appropriation for the payment of the Mora claim, if they understand that this payment coincides with the payment of the Spanish claims to be effected by the American Government. Hence the necessity of proceeding during the parliamentary recess to an immediate general and definite settlement of all pending claims, to the advantage not only of the claimants of the two nations, but to the increase of the friendly relations the maintenance of which is such a source of gratification to the Government of Her Majesty the Queen Regent of Spain.

I avail myself of this occasion to renew to you the assurances of my distinguished consideration.

EL MARQUES DE LA VEGA DE ARMIJO.

To the CHARGÉ D'AFFAIRES OF THE UNITED STATES.

*Mr. Bayard to Mr. Strobel.*

No. 323.]

DEPARTMENT OF STATE,  
Washington, September 17, 1888.

SIR: I have to acknowledge the receipt of your No. 345 of the 9th ultimo, transmitting copy and translation of the note of the Spanish minister of state of the 7th ultimo, reiterating the impossibility of obtaining an appropriation from the Cortes for the payment of the Mora claim without an agreement between the United States and Spain to dispose of claims of the latter against this Government.

So far as the minister's note declares the inviolability of the settlement arrived at in the Mora case, and its removal from the sphere of



discussion, it is satisfactory to this Government, and fulfills the expectations that had been confidently entertained in regard to the observance by the Spanish Government of the agreement heretofore concluded. Nor has this Department been indisposed to include the payment by Spain of the Mora claim with the settlement of other claims pending between the two Governments, provided a fair arrangement for the adjustment of such cases could be arrived at within a reasonable period.

But it can not be admitted that the payment of the acknowledged debt of the Spanish Government in the case of Mora can, as the minister of state intimates, be "indefinitely postponed" until the disposition, or a method of disposition, shall have been reached of all the controverted demands of Spain against this Government.

The Department does not perceive in such a plan the element of reciprocity which the minister of state expresses a desire to introduce. On the contrary, its result appears to be practically to defeat the settlement arrived at in the Mora case by an indefinite postponement.

This view of the matter receives color from the delay of the Spanish Government in responding to the proposition for the settlement of claims submitted to it by your legation in accordance with the instructions of this Department on the 15th of December of last year. With the exception of vague suggestions on one or two occasions from the Spanish minister at this capital that the plan so submitted lacked reciprocity, this Department has received no response to its overtures for a general plan for the adjustment of mutual claims. In reply to those indefinite intimations this Department has long since expressly declared its readiness to take into consideration any counter proposition from the Government of Spain, and has pressing invited specification of the particulars wherein its proposals were supposed by Spain to lack reciprocity.

The note of the minister of state now under consideration renews the objection heretofore suggested, but equally fails, with the notes of the Spanish minister, above referred to, to advance the negotiation.

The Department is, therefore, unable to accept the minister's conclusion that the delay in the payment of the Mora claim can, in any degree, be justly attributed to this Government.

On the contrary, this Department is of opinion that the sum agreed to be paid in that case may, under the circumstances, fairly be treated as a debt due and withheld by Spain from the United States, upon which interest should justly be computed from the time the agreement was concluded.

I am, &c.,

T. F. BAYARD.

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*Mr. Bayard to Mr. Belmont.*

No. 4.]

DEPARTMENT OF STATE,  
Washington, December 18, 1888.

SIR: I invite your attention to the claim of Antonio M. Mora against the Government of Spain.

It is unnecessary, nor would it be pertinent, to recite in detail the history of the claim, which has been conclusively adjusted for a specific sum and only awaits payment by the Spanish Government. It is much to be desired that the case should be finally disposed of by the payment



of the sum agreed on more than two years ago. During that period the justice and validity of the settlement have never been questioned; but the Spanish Government, while repeatedly admitting its obligations, has alleged that it is not practicable to obtain payment of the amount agreed upon, unless provision be made for the adjustment of claims of Spain against the United States. This suggestion was first made long after the date of the adjustment of Mr. Mora's claim and was not anticipated by this Government.

You will represent to the Spanish minister of foreign affairs the hardships upon Mr. Mora, at his extreme age and enfeebled condition of health and depressed fortunes, to be compelled to await the determination of the contested claims of other individuals, Spaniards and Americans, in which he has no possible interest or responsibility and to whose contingencies it can not be justly argued that his life and property should be attached.

You can delicately appeal on the score of humanity and to the Spanish sense of honor, that some arrangement be made which would enable the distinct and unequivocal agreement of the Spanish Government in respect to the claim of Mr. Mora to bear fruit capable of enjoyment by this aged beneficiary.

It is necessary that you should be informed that the only case which has been put forward by the Spanish Government as in any sense a specific offset to the claim of Mora is that of Maza and Larrache, for cotton alleged to have been taken from them by the authorities of the United States in 1865. You will find the correspondence relating to this claim in the volume of Foreign Relations for 1887.

I am, etc.,

T. F. BAYARD.

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*Mr. Rodriguez to Mr. Bayard.*

WASHINGTON, *March 1, 1889.*

**SYNOPTICAL AND CHRONOLOGICAL MEMORANDUM OF THE ORIGIN AND VICISSITUDES OF THE CLAIM OF ANTONIO MAXIMO MORA AGAINST THE GOVERNMENT OF SPAIN.**

**NOVEMBER 7, 1870.**—A court-martial meets at Havana and passes, by default, a sentence of death and confiscation of property against fifty-one persons, one of them already dead, and all others absent, among them Antonio Maximo Mora, a citizen of the United States, naturalized in New York on May 19, 1869.

**FIRST PROMISE OF SETTLEMENT.**

**NOVEMBER 25, 1870.**—The Secretary of State of the United States instructs the United States minister at Madrid to enter a protest against the above sentence, and its enforcement against American citizens or their property. Citizens of the United States can not be tried in Cuba, except as provided by treaty. Seizures of American property are forbidden by treaty. The penalty of confiscation of property was abolished in Spain by Article x of the constitution of 1837 and Article XIII of the constitution of 1869.

MAY 6, 1872.—The Secretary of State of the United States writes to the Spanish minister at Washington, that “he had *several times, in interviews with him, brought to his attention the case of Antonio Maximo Mora, and other citizens of the United States, and that now he most urgently invites again the said attention to the said cases, with a view to their early and satisfactory adjustment.*”

MAY 14, 1872.—The Spanish minister replies, suggesting that the question of restitution of the confiscated property might be submitted also to the arbitrators appointed under the executive agreement of February 11 and 12, 1871, between the State Departments of the two countries.

MAY 22, 1872.—The Secretary of State of the United States declines the proposition, and says: “The claims before the commission are for *compensation* for past injuries; but the applications for the *release* of the property are properly subjects for diplomatic intervention. I have, therefore, the honor to *renew* my request that *energetic measures* may be adopted to hasten such release, \* \* \* as the property has been embargoed, or confiscated, in contravention of existing treaty stipulations between the United States and Spain.

DECEMBER 23, 1872.—Telegram of the Secretary of State of the United States to the United States minister at Madrid: “Urge the immediate release and restoration of embargoed property.” \* \* \*

JANUARY 3, 1873.—Telegram of the United States minister at Madrid to the Secretary of State of the United States: “Minister of state communicated to me to-day, under reserve, for your information, preliminary resolution of council of ministers \* \* \* for the return of confiscated property.”

JULY 11, 1873.—Telegram of the United States minister at Madrid to the Secretary of State of the United States: “A decree of general character, directing the confiscated property to be released and returned to the owners, is about to be promulgated by the Spanish Government.”

JULY 14, 1873.—The United States minister at Madrid writes to the Secretary of State of the United States: “I have the satisfaction to forward \* \* \* copy and translation of a decree \* \* \* directing the immediate restoration of property.” \* \* \* (See “Foreign Relations of the United States in 1873,” pages 1008 and 1009.)

The decree of July 12, 1873, herein referred to, was not obeyed in Cuba, or even published. The belief was at first entertained that this disregard of the orders of the Madrid Government was due to insubordination on the part of the Cuban authorities; but it appeared afterward that it was due to secret instructions sent from Madrid to the governor-general at Havana. Those instructions, after reciting the reasons why the decree should not receive attention, used the following language:

In addition to the reasons already suggested to explain why the decree of July 12th instant can not be complied with, your excellency may say further that under article fourth of the same decree, certain rules and regulations are to be made by this department (the Spanish state department), or rather by the Havana board of seized property, to be approved by this department, previously to any attempt to comply with any other of its provisions, and that said rules and regulations have not been as yet made or approved.” \* \* \* “The circumstances that the said decree was officially communicated to the minister of Spain at Washington, with instructions to transmit it to the Secretary of State of the United States, which he did, and that the President of the United States in reply expressed his satisfaction, \* \* \* are certainly calculated to complicate the matter, especially under the circumstances in which we are at present; but no action at all shall be taken, however, without first having the authorized opinion of your excellency.



## SECOND PROMISE OF SETTLEMENT.

SEPTEMBER 15, 1873.—The Spanish Government at Madrid sends an order to the governor-general of Cuba directing him to release the property of Antonio Maximo Mora and other citizens of the United States.

NOVEMBER 7, 1873.—The Spanish Government at Madrid directs by cable the governor-general of Cuba to comply with the above order of September 15. The restitution must be made, he says, prior to the 30th of November, in order to avoid international complications.

NOVEMBER 24, 1873.—The colonial minister, who has come to Havana to personally superintend the restitution of the property of American citizens, addresses a communication to the governor-general recommending said restitution to be commenced at once.

Neither these orders of September 15 and November 7, 1873, nor the movement of the Spanish colonial secretary ended in any practical result, because of the contemporary fall of the Spanish Republic. Gen. Pavia, at the head of his soldiers, invaded the palace of the Cortes and expelled and disbanded the representatives of the nation, establishing a temporary government, at whose head he placed Marshal Serrano. The colonial secretary left Cuba in haste, and the matter of the restitution of American property was allowed to drop.

## THIRD PROMISE OF SETTLEMENT.

NOVEMBER 5, 1875.—The Secretary of State of the United States writes to the United States minister at Madrid, making a historical review of all that had happened in the matter of the "arbitrary seizure and withholding of the estates and property of citizens of the United States and Cuba, under proceedings of confiscation," and saying the following: "This simple narration of facts, \* \* \* the promises made and repeated, the assurances given from time to time that something should be done, the admission of the justice of the demands of this country, at least to the extent of expressing regret for these wrongs and promising redress, followed, as they have been, by absolutely no performance, need no extended comment." \* \* \* "The President feels that the time is at hand when it may be the duty of other governments to intervene" (in the affairs of the Island of Cuba), and that "it is his duty at an early day to submit the subject in this light, and accompanied by an expression of his views, \* \* \* to the consideration of Congress." "This conclusion is reached after every other expedient has been attempted and proved a failure, and in the firm conviction that the period has at last arrived when no other course remains for this Government. It is believed to be a just and friendly act to frankly communicate this conclusion to the Spanish Government.

FEBRUARY 9, 1876.—The Spanish secretary of state writes to the United States minister at Madrid: "I have the satisfaction to inform your excellency that the Government of his majesty, accepting as sufficient proof of the nationality of those persons (Mora and three other claimants) the evidence furnished by your excellency, \* \* \* but considering that under the laws of Spain the executive power has no authority to reverse or nullify the final decisions of a court, has reached the conclusion of granting a pardon to the said persons and ordering in consequence thereof that the confis-



cation of the property made under the sentence aforesaid should be discontinued and that the property should be at once placed at the free disposal of the owners. This decision of his majesty's Government has been communicated this very day by cable to the superior authorities of Cuba, and your excellency may rest assured that it will be faithfully executed.

MAY 13, 1876.—The United States consul-general at Havana reports as follows: "The authorities here pay no attention to the representations of Mr. Mora's agent in regard to the restoration of his property. \* \* \* The Government refuses to receive the memorials of the agent on the ground that there is no positive proof of his being the legally constituted attorney. All this is mere subterfuge. Mr. Gonzalez (the agent) has been \* \* \* recognized as the attorney of Mr. Antonio Maximo Mora. The powers of attorney he holds have been duly approved by the General Government, admitted, and duly registered. \* \* \* Aside from the evident purpose of the subordinate authorities to create obstacles it is possible that they may have some personal objection to Mr. Gonzalez, although I know of no motive therefor."

The matter remained in this way for ten years longer, during which time, however, the Mora case was frequently urged. In 1883 (July 2), Mr. Foster, then the United States minister at Madrid, made a vigorous presentation of the case, but Marquis de la Vega de Armijo, then the Spanish secretary of state, did not even reply to his note, and allowed the whole time he was in office to pass without taking any notice of Mr. Foster's note. For this he was highly eulogized in the Cortes by the opposition, in whose eyes his action was considered patriotic. (See Extracto Oficial, or Spanish Congressional Record, May 28, 1887.)

#### FOURTH PROMISE OF SETTLEMENT.

MARCH 3, 1886.—Mr. Curry, United States Minister at Madrid, presents again the case to the consideration of the Spanish Government.

JUNE 30, 1886.—Señor Moret, the Spanish secretary of state, replies as follows:

PALACE, June 30, 1886.

MOST EXCELLENT SIR: The claim which your legation has made in relation to the property of Antonio Maximo Mora, which was confiscated in the Island of Cuba, has been kept for some time under the most friendly consideration by the Spanish Government.

If the positive orders transmitted to the captain-general of Cuba for the restitution of that property have not been as yet complied with, the failure has been due to the peculiar occurrences which have taken place in that island and to legal difficulties which prevented the property from being returned.

This combination of circumstances, as well as the time elapsed, render at this date the strict compliance with the orders—that is, the actual restitution of the property—impossible. But as the Spanish Government desires to give one proof more of its consideration towards the Government of the United States and towards your excellency, who so worthily represents it, it has not hesitated to propose the payment of a sum of money which will represent an equitable indemnity for the value of said property.

If your excellency accepts this proposition, we can by mutual agreement, upon examination of the record, fix the amount of the indemnity, and then the colonial secretary shall make in his budget an appropriation to pay the sum agreed upon by us, unless upon consideration of the analogous questions pending between the two nations, some other more expeditious way of immediate payment to the claimants happens to be found out. All of this is on the express condition that all further claim for the seizure of the property and for everything else bearing any relation therewith is waved and given up.

I remain, etc.,

S. MORET.

To the MINISTER PLENIPOTENTIARY OF THE UNITED STATES.

**NOVEMBER 29, 1886.**—The Spanish secretary of state, Señor Moret, writes to Mr. Curry, the United States minister at Madrid, as follows:

PALACE, *November 29, 1886.*

**MOST EXCELLENT SIR:** In reply to your excellency's note of the 20th instant on the matter which we know by the name of the Mora claim, I have the honor to inform your excellency that the council of ministers has examined the matter in detail, and, feeling itself animated by the desire to fulfill the engagements formerly contracted and to respond to the claims of the United States, has decided upon the terms of settlement which I have now the honor to transmit to your excellency, and are as follows:

First. To fix as a definite amount to be paid for the confiscated property of Mr. Mora, which the Government decided to return in 1873 and 1876, the sum of \$1,500,000. This sum shall cover all indemnity that can be claimed for the principal as well as for interest and damages.

Second. This sum shall be paid by a charge upon the Cuban budget, and the colonial secretary shall propose to the Cortes in the next budget of 1887-'88 the means of payment.

I must add that as the colonial budget is not in condition to support at one time the considerable sum of \$1,500,000, especially after the arrangements just made for the payment of the debt and outstanding obligations, the Government has naturally reserved the determination of the most practicable method of paying the amount, of which I shall have occasion to give to your excellency due information.

If your excellency, as I hope, will find these conclusions to be just, and will be good enough as to express to me your assent to them, we can consider that this matter, which your excellency aptly qualifies as protracted and as annoying to both governments, is terminated, on condition, as I have already had the honor to inform your excellency in my note of June 30th ultimo, that both Mora and the Government of the United States in his behalf shall waive and give up all further claim for the seizure of this property and everything else concerning it.

I avail myself of this opportunity, etc.,

S. MORET.

The MINISTER PLENIPOTENTIARY OF THE UNITED STATES.

**DECEMBER 7, 1886.**—The United States minister at Madrid, Mr. Curry, replies to Señor Moret as follows:

LEGATION OF THE UNITED STATES,

*Madrid, December 7, 1886.*

**MOST EXCELLENT SIR:** In reply to your excellency's note of the 29th ultimo, offering the amount of \$1,500,000 in settlement of the claim presented by this legation to the Government of Spain, in behalf of the American citizen, Antonio Maximo Mora, for the embargo of his property in Cuba, I have the honor to state that I have communicated with my Government in regard to the matter, and have been informed that the above offer is accepted by it. I also take pleasure in repeating the statement made in the note which I had the honor to send to your excellency on July 1 last, that the amount of indemnity agreed upon, and paid, will be accepted by my Government as a full discharge of all demand against the Government of Spain growing out of the claim of this citizen of the United States.

While expressing to your excellency the gratification felt by the United States Government of an action so much in accordance with the well-known sense of honor of the Government of Her Majesty, I beg to inform your excellency that I am ready at any moment, as your excellency suggests, to arrange the details of payment in order that this question, which your excellency admits to have been tedious and annoying, may as soon as possible be finally removed from the consideration of both governments.

I avail, etc.,

J. L. M. CURRY.

His Excellency S. MORET, *Secretary of State.*

**JUNE 13, 1887.**—The Spanish colonial secretary submits to the Cortes the appropriation bill (Budget) for the year 1887-'88, Article 20 of which reads as follows:

Art. 20. Authority is hereby given to the Government to pay the amount of the claims allowed to citizens of the United States by agreement made between the Secretary of State and the minister plenipotentiary of that Republic.

The payment shall be made in such a form as may be agreed upon between the



two governments; and the sums which the Spanish Government has to receive for its own pending claims shall necessarily be applied to cover that item.

For the purposes of this article an appropriation as large as necessary shall be understood to be hereby made.

The foregoing bill never became a law. The meetings of the Cortes was suspended by royal decree of July 11, 1887. When the Cortes met again, on December 1, the appropriations of the preceding year were made available and the budget of 1887-'88 was left unacted upon.

AUGUST 22, 1887.—Mr. Curry, United States minister, at Madrid, writes to one of Mr. Mora's lawyers as follows:

The Cuban budget, as presented by the minister of Ultramar, contained an appropriation, which, in the aggregate, covered all allowed claims. But for the unfortunate complications growing out of the army reorganization scheme, threatening a ministerial crisis, and necessitating, as Sagasta thought, a prorogation of the Cortes, \* \* \* the budget would have become a law in a few days and the claims \* \* \* would have been adjusted. \* \* \* The definite sums for the various claims had been fixed by Mr. Moret and myself.

FEBRUARY 22, 1888.—Señor Lastres, a member of the Spanish Cortes, introduced a resolution repudiating the agreement between Señor Moret and Mr. Curry for the settlement of the Mora claim, and directing the Government not to pay anything on this account.

FEBRUARY 24, 1888.—The above resolution was defeated, after a protracted debate, by a vote of 170 against 47.

MARCH 26, 1888.—Mr. Curry, the United States minister at Madrid, writes to one of Mr. Mora's lawyers (Mr. Paige) in reference to certain declarations made by Señor Moret in the Cortes in defense of his action against the attacks of Señor Lastres and his followers, and says:

Señor Moret's speech in one particular was unsatisfactory. His defense of the Mora agreement and his familiarity with the details of the claim are beyond what I had anticipated. But he impliedly, if not in fact, made the payment of Mora contingent on reciprocity. To that construction I instantly and firmly made an emphatic protest; but to my denial of his interpretation a verbally promised response has not yet come. I have no reason for thinking that our Government will not insist upon a specific performance of the obligation. \* \* \* The present *status* of the Mora case will be presented in full in a dispatch, which I presume the Department will not be unwilling to show to persons interested.

APRIL 12, 1888.—Mr. Curry, the United States minister at Madrid, writes to another lawyer of Mr. Mora's (Mr. Conkling), and says:

The proposition of the Spanish Government to settle the Mora case by the payment of \$1,500,000, which was to be charged to the Cuban budget for 1887-'88, was accepted by our Government and constituted a finality. \* \* \* In candor I must say that I have no reason to question the *bona fides* of the Government, and much less to withdraw confidence from the minister of foreign affairs, Mr. Moret. A threatened ministerial crisis caused the prorogation of the Cortes last summer before the budget was acted on. When the National Legislature reassembled the Mora case and Mr. Moret were assailed with virulence and acrimony. \* \* \* Moret responded with vigor and eloquence; but it must be conceded that he made some declarations which were not in strictest harmony with or inferential from the agreement of his Government. To these declarations and inferences I promptly entered my dissent and protest. \* \* \* Thus the matter stands.

APRIL 16, 1888.—The Spanish colonial secretary submits to the Cortes the budget for 1888-'89, with no provision to pay the Mora claim or any other claim.

APRIL 24, 1888.—The United States minister at Madrid, Mr. Curry, writes to the Spanish secretary of state, Señor Moret, and says:

I hope that your excellency, in behalf of your excellency's Government, will give me such assurances as to dispel and reject far away from my mind any suspicion (recelo) which may have arisen out of the omission about which I have the honor to call the attention of your excellency.



MAY 12, 1888.—The Spanish secretary of state, Señor Moret, replies to the above as follows :

PALACE, *May 12, 1888.*

SIR: In reply to the note which your excellency had the kindness to address me on April 24, I have the honor to say that the Government did not put in the budget of the Island of Cuba the item or article inserted in the budget of last year for the execution of the agreement made with the Government of your excellency, in reference to the indemnities to be paid to American citizens, nor has it put in it any new clause for the same purpose, because of the reasons that I shall now set forth, and to which I hope your excellency will give their full value.

The Government has been compelled, before all, to pay attention to what happened in the Congress of Deputies during the discussion of this subject in December and January last. The effect of that long and minute debate was the conviction on the part of the Government that the chamber was not disposed to sanction what the Government had done, unless all other American claims were settled and liquidated, so that there should be a definite disposal both of the claims held by the United States against Spain, which have been the subject of negotiations, and of those held by Spain against the United States, which are being negotiated at Washington.

Under this condition of things, and in view of the fact that the opinion of the different groups of the opposition has been expressed, the reproduction of the item, with the clearness required by parliamentary rules, would have assuredly provoked a negative vote of the House, which would have been injurious to the very purposes of the note of your excellency, to which I now have the honor to answer.

On the other hand, the propositions which your excellency made to me on the 15th of December ultimo, formulating in the name of the Government of the United States, as a consequence of our negotiations, a general arrangement of all the claims existing between the two governments, are now under discussion. Under the authority that your excellency gave me for that purpose, I reported these propositions to Congress, and I think that it would not be prudent to ask for the appropriation necessary to pay the claim of Antonio Maximo Mora, without accompanying the petition with some analogous and reciprocal resolution in reference to the totality of the claims, sufficient to terminate the question entirely.

The urgency of the parliamentary business in which I have been engaged has prevented me from replying as yet to the note of your excellency just referred to. I shall have the honor to do so in a few days.

It is my duty to say further that for the purpose in view it is of no consequence and makes no difference at all that the item referred to by your excellency has not been put in the budget of Cuba of the present year, because the Government can at any time introduce a bill in Congress asking for such an appropriation as is necessary.

In ending in this way my reply to the note of your excellency of April 24, I desire in every way to make it evident that the Government does not propose or assume to alter in any way what has been agreed upon with the Government of the United States; but that for the very reason that it respects scrupulously its engagements, it must appreciate the manner and the moment in which, upon consideration of the parliamentary antecedents of the question, it may be most opportune to introduce in Congress, with probability of success, the proper resolution. Being assured that in any other way any resolution which has not the general and total character which I have indicated would be rejected by Congress, the Government could not expose itself to such a refusal, which would complicate the subject and delay the settlement instead of terminating it, as must be done for the good of the two countries and is desired by them.

I trust that these considerations will completely satisfy your excellency and will give also to the Government of your excellency the assurance that the Government of the Queen Regent does not modify or alter the attitude taken by it on this subject.

I gladly avail of this opportunity, etc.,

S. MORET.

His Excellency J. L. M. CURRY.

JUNE 30, 1888.—The United States minister at Madrid writes to the new Spanish secretary of state (Marquis de la Vega de Armijo) as follows :

LEGATION OF THE UNITED STATES,

*Madrid, June 30, 1888.*

SIR: I have the honor to invite the attention of your excellency to the status of the claim of Antonio Maximo Mora, which was originally presented to the Spanish Government on the 2d of June, 1881, at the time when your excellency was in charge of the ministry, over which you so worthily preside.

It is unnecessary for me to refer to the correspondence and to the different stages of the negotiation which preceded the note of your excellency's distinguished predecessor, Señor Moret, of the date of June 30, 1883, which, after explaining the impossibility of returning the property itself, stated that ("deseando el Gobierno español," etc., \* \* \* ) "as the Spanish Government desires to give one proof more of its consideration for the Government of the United States and for your excellency, who so worthily represents it, it has not hesitated to propose the delivery of a sum of money which will represent an equitable indemnity for the value of said property."

A prompt response was made by this legation on the following day, July 1, accepting the above proposition.

It is also needless to trace the different steps in the further negotiations which had for their object a just estimate of the value of the property, and which led to the note of Señor Moret of November 29, 1886, containing the following statements and propositions:

"El Consejo de Ministros \* \* \* . The council of ministers has examined the matter in detail and, being animated by the desire to fulfill the engagements formerly contracted and to respond to the claims of the United States, has decided upon the terms of settlement, which I have the honor to transmit to your excellency, and are as follows:

"First. To fix as a definite amount to be paid for the confiscated property of Mr. Mora, which the Government decided to return in 1873 and 1876, the sum of \$1,500,000. This sum shall cover all indemnity that can be claimed for the principal, as well as for interest and damages.

"Second. This sum shall be paid by a charge upon the Cuban budget, and the colonial secretary shall propose to the Cortes in the next budget of 1887-'88 the means of payment."

On December 7 the legation replied to the above note, agreeing to accept the sum offered in full discharge of the claim.

In view of the above correspondence the Government of the United States naturally believed that the Mora case was definitely settled, and looked with confidence to a provision for its payment in the Cuban budget of 1887-'88.

The Cortes adjourned without having passed this budget. The report of the committee, however, without referring particularly to this claim, had a qualifying reference to the American claims in general, which, whatever application it might have to other claims, could not, in the face of the exchange of notes to which I have referred, have any relation to the claim of Antonio Maximo Mora; and exception was taken to affect that case, in the note which I had the honor to address to Señor Moret on December 15, 1887, transmitting a project of agreement for the settlement of other outstanding claims between the two governments.

The theory that the payment of the Mora case was in some way connected or dependent upon the payment of other claims, which first appeared in the report of the above committee, received further development in the speech of Señor Moret during the debate on this question on the 23d and 24th of February last. As soon as the official report was before me, I again, on the 5th of March last, took the liberty of calling the attention of Señor Moret to the fact that the correspondence between this legation and the Government of Spain on this subject clearly showed that the statement of his excellency in reference to reciprocity of payment of claims could not apply to the case of Mora. In another note of April 24th I also expressed surprise and regret at the omission of any provision for the payment of the claim from the Cuban budget, as published in the "Gaceta" of the 19th of the same month.

In reply to the latter note, dated May 12, 1888, Señor Moret explained that the failure to provide in the budget for the payment of the claim was caused by the unfavorable sentiment in the Chamber of Deputies, which would have produced an unfavorable vote; but that the omission of that provision had no signification, because "el Gobierno," etc., \* \* \* "the Government can at any time introduce a bill in Congress asking for such an appropriation as is necessary."

I have taken the liberty of making the above summary in order that your excellency may observe how important from an international point of view is the position occupied by this subject. By the distinct proposition of the Spanish Government to pay \$1,500,000 in full discharge of the claim, and by the distinct acceptance of this proposition on the part of the Government of the United States, the Mora case was raised from the debatable and negotiable ground which it had previously occupied to the height of an international compact binding upon both governments.

For the early and final disposal of the question the Government of the United States, therefore, relies with confidence upon the justly celebrated promptness and punctiliousness with which the Spanish Government fulfills its engagements, and awaits with interest any information which your excellency will be good enough to transmit through me as to the methods and details of payment.

I gladly avail myself, etc.,

J. L. M. CURRY.



AUGUST 7, 1888.—The Spanish secretary of state sent the following reply to Mr. Strobel, chargé d'affaires *ad interim* of the United States:

MINISTRY OF STATE,  
Palace, August 7, 1888.

MY DEAR SIR: I have received the note which the minister of the United States at this court was good enough to address to me on June 30th last, in which he gives a summary of the correspondence which during the last two years has passed between the legation under his worthy charge and this ministry relative to the claim of Antonio Maximo Mora, and declares the confidence felt by his Government that the Government of Her Majesty will at an early date adopt suitable measures for the payment of the sum to which the indemnity in the case amounts.

It does not appear to me to be necessary for the moment to enter upon an examination of the considerations set forth by your legation in the note to which I have the honor to reply, in reference to the engagement contracted in the special case of Mr. Mora, because the cabinet, of which I form a part, nourishes the purpose and the desire of satisfying, as far as it lies in its power, the Government which you represent. I may be allowed to add, however, that this desire and this purpose are now, as they were during the previous administration, subject to the decision of the Cortes of the Kingdom. And the clear proof of this was the inclusion in the colonial budget of 1887-'88 of the appropriation necessary for the payment of the above claim, which explicitly showed that the proposition had to be definitely submitted to the examination and approbation of the legislative bodies. This necessity was also made clear by Señor Moret whenever he handled this subject in the discussions which arose in regard to it in the Congress of Deputies.

My worthy predecessor in his note of May 12 ultimo explained the potent reasons which had influenced the mind of Her Majesty's Government in not reproducing in the Cuban budget of this year the provision inserted in the same the year before respecting the indemnities of American subjects. Señor Moret feared—in my judgment with superabundance of reason—that in view of the discussions in Congress in December and January last, and of the state of public opinion in reference to the subject now occupying us, the Cortes would not sanction what had been done by the Government unless the request for the appropriation necessary to pay Mr. Mora would be accompanied by an agreement between the two Governments in reference to the whole amount of the American claims, and should include the decision and settlement of these in such terms that both the claims of the United States against Spain, which have been the subject of the last negotiations, and the claims presented by Spain against the Government of the United States, which are being negotiated in Washington, should be definitely disposed of.

In view of the above facts, Her Majesty's Government hopes that the Government of the United States will facilitate the execution of what was agreed upon in the case of Mora, which, without the general settlement to which I have referred, might be rendered impossible or indefinitely postponed, in opposition to the desires of the Madrid cabinet. The bases of such a settlement were stated in the note, which, with the due authorization of his Government, Mr. Curry addressed to my predecessor on December 15 of last year.

These bases, an examination of which is being made by the ministry under my charge, can serve as a starting point for said settlement, always providing that the Mora claim be included, although not discussed, and in this way be placed on the same footing as the others, and be deprived of the character of priority in payment, which is the principal difficulty in the way of its approbation by the Cortes of the Kingdom.

You, with your good judgment, will not fail to understand the impossibility of contending with success against the opinion of Parliament and the country, when both see that while Spain has duly paid all the claims presented by the United States, the day never comes when the claims which have for so many years been presented in their turn by Her Majesty's Government are attended to and paid. Hence, there results an inequality which has no place in the rectitude and impartiality of the men who succeed each other in the Government of the Union.

The Cortes of the Kingdom, I am convinced, will not fail to vote the necessary appropriation for the payment of the Mora claim, if they understand that this payment coincides with the payment of the Spanish claims to be effected by the American Government. Hence the necessity of proceeding during the parliamentary recess to an immediate general and definite settlement of all pending claims to the advantage not only of the claimants of the two nations, but to the increase of the friendly relations, the maintenance of which is such a source of gratification to the Government of Her Majesty the Queen Regent of Spain.

I avail myself, etc.,

EL MARQUES DE LA VEGA DE ARMIJO.



JANUARY 18, 1889.—Marquis de la Vega de Armijo explains to the Congress of Deputies, in reply to Señor Lastres and the opposition, what his real intentions are: He thinks that the alleged Spanish claims against the United States are for an amount larger than the Mora claim and all other claims of the United States against Spain, and expects that the practical result would be a gain for Spain: “Podemos todavía salir ganando.”

He said: “It is not possible for any government to refuse entirely to a foreign nation what had been previously offered to her under the signature of an official having full authority to conduct the foreign relations of the country. \* \* \* What can be done only is to endeavor to give them a new aspect (*una nueva faz*); and I hope and trust to get out of this business without needing to come to Parliament and ask it for resources.”

If Spain were not the proud and chivalrous nation that history has proved her to be, the conclusion which might perhaps be drawn from the foregoing memorandum would justify the assertion of one of her lawyers in this city. It might be said that her promises had no other object in view than securing temporary relief from pressure on the part of the United States, but no intention at all to do justice to the claimants, or show deference and friendship to the American Government. The lawyer aforesaid, Mr. John D. McPherson, stated, in 1880, “that in ordering the restitution of this property Spain admitted nothing, but simply made a sacrifice for the purpose of securing peace.”

The restitution of Mr. Mora's property ought to have been made, when asked for, in 1872, or at least when ordered in 1873 and 1876. The payment of the sum of money proposed by Spain herself in lieu of that restitution, a sum of money which Spain herself suggested, ought to have been made, when promised, during the fiscal year of 1887-'88. Neither that restitution, nor this payment, have anything to do with any other claim, whether settled or unsettled, whether American or Spanish. Spain can not mix the case of Mr. Mora with any other case, deprive it of the priority of payment which was agreed upon, or make it dependent in anyway whatever upon any other arrangements between both nations.

Respectfully submitted.

J. I. RODRIGUEZ,

*Attorney in Fact and Counsel for Antonio Maximo Mora.*

WASHINGTON, D. C., March 1, 1889.

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*Mr. Blaine to Mr. Palmer.*

No. 3.]

DEPARTMENT OF STATE,

*Washington, May 20, 1889.*

SIR: What is known as the “Mora case” has been under discussion between this Government and the Government of Spain for many years. I call your attention to it thus early in your mission, by special direction of the President, who attaches great importance to its proper settlement. I deem it unnecessary to furnish you with a minute history of its previous negotiation. You will find all the facts, in full detail, among the archives of the legation, and this instruction is intended to make you fully acquainted with the present status of the case.

It is sufficient now to say that Antonio Maximo Mora is a naturalized citizen of the United States, whose citizenship has been unequivocally and formally recognized by the Spanish Government. It has never been denied or questioned, even by implication, in any of the phases of this protracted discussion.

In 1870, while residing in the United States, Mora was tried by a Spanish court-martial in Havana, for alleged offenses *committed in the United States* against the Cuban government, was sentenced to death, and all his vast and valuable property confiscated.

In response to the earnest remonstrance of the Government of the United States, the Spanish Government, in 1873, by repeated decrees ordered the restitution of Mora's property, but the decrees were never carried into execution.

After this neglect and practical reversal of its own decrees by the Spanish Government, the Secretary of State of the United States (Mr. Hamilton Fish) wrote as follows to the United States minister at Madrid (Mr. Caleb Cushing), November 5, 1875:

This simple narration of facts, \* \* \* the promises made and repeated, the assurances given from time to time that something should be done, the admission of the justice of the demands of this country, at least to the extent of expressing regret and promising redress for these wrongs, followed as they have been by absolutely no performance, need no extended comment. The President feels that the time is at hand when it may be the duty of other governments to intervene (in the affairs of the Island of Cuba). \* \* \* It is his duty at an early day to submit the subject in this light and accompanied by an expression of his views \* \* \* to the consideration of Congress. This conclusion has been reached after every other expedient has been attempted and proved a failure, and in the firm conviction that the period has at last arrived when no other course remains for this Government. It is believed to be just and friendly to frankly communicate this conclusion to the Spanish Government.

On February 9, 1876, the Spanish secretary of state replied to the United States minister at Madrid:

I have the satisfaction to inform your excellency that the Government of His Majesty, accepting as sufficient proof of the nationality of those persons (Mora and three others) the evidence furnished by your excellency's communication, dated the 6th instant, seeing that the Spanish laws do not concede to the executive power the right of annulling sentences made executory, has resolved to remit and pardon the penalty which was imposed on the above-named subjects of the United States by the ordinary council of war, and in consequence thereof to command that there be immediately raised the confiscation or embargo of their property which may have been decreed, leaving it at their free disposal. The resolution of the Government of His Majesty is communicated this very day by telegraph to the superior authorities of Cuba, and your excellency may rest assured that it will be faithfully executed.

For ten long years these solemn promises and these official pledges of the Spanish Government remained unredeemed, although the reports and records of the Spanish courts and officers proved that the royal treasury at Madrid had in the meantime received from the illegally confiscated property of Mr. Mora not less than \$2,000,000.

At last the Spanish Government seemed to realize that such conduct was not consistent with its own long and honorable record of good faith in the discharge of international obligations; and on June 30, 1886, Señor Moret, the Spanish secretary of state, whose reputation for unsullied integrity added weight to the force of his official declarations, wrote to Mr. Curry, then our minister at Madrid:

PALACE, June 30, 1886.

MOST EXCELLENT SIR: The claim which your legation has made in relation to the property of Antonio Maximo Mora, which was confiscated in the Island of Cuba, has been kept for some time under the most friendly consideration by the Spanish Government. If the positive orders transmitted to the captain-general of Cuba for the restitution of that property have not as yet been complied with, the failure has been



due to the peculiar occurrences which have taken place in that island and to legal difficulties which prevented the property from being returned. This combination of circumstances, as well as the time elapsed, render at this date the strict compliance with the orders—that is, the actual restitution of the property—impossible. But, as the Spanish Government desires to give one more proof of its consideration toward the Government of the United States, and toward your excellency, who so worthily represents it, it has not hesitated to propose the payment of a sum of money which will represent an equitable indemnity for the value of said property.

Continuing the subject, Señor Moret further wrote to Mr. Curry :

PALACE, November 29, 1886.

MOST EXCELLENT SIR: In reply to your excellency's notes of the 20th instant on the matter which we know by the name of the Mora claim, I have the honor to inform your excellency that the council of ministers has examined the matter in detail, and that feeling itself animated by the desire to *fulfill the engagements formerly contracted* and to respond to the claims of the United States, has decided upon the terms of settlement which I have now the honor to transmit to your excellency, and are as follows :

First. To fix as a definite amount to be paid for the confiscated property of Mr. Mora, which the Government decided to return in 1873 and 1876, the sum of \$1,500,000. This sum shall cover all indemnity that can be claimed for the principal as well as for interest and damages.

Second. This sum shall be paid by a charge upon the Cuban budget, and the colonial secretary shall propose to the Cortes in the next budget of 1887-'88 the means of payment.

I must add that as the colonial budget is not in condition to support at one time the considerable sum of \$1,500,000, especially after the arrangements just made for the payment of the debt and outstanding obligations, the Government has naturally reserved the determination of the most practicable method of paying the amount, of which I shall have occasion to give your excellency due information.

If your excellency, as I hope, will find these conclusions to be just, and will be good enough as to express to me your assent to them, we can consider that this matter, which your excellency aptly qualifies as protracted and as annoying to both governments, is terminated.

To this communication, after submitting it to his Government, Mr. Curry replied on December 7, 1886 :

In reply to your excellency's note of the 29th ultimo, offering the amount of \$1,500,000 in settlement of the claim presented by this legation to the Government of Spain in behalf of the American citizen Antonio Maximo Mora for the embargo of his property in Cuba, I have the honor to state that I have communicated with my Government in regard to the matter, and have been informed that the above offer has been accepted by it. I also take pleasure in repeating the statement made in the note which I had the honor to send to your excellency on July 1 last, that the amount of indemnity agreed upon and paid will be accepted by my Government as a full discharge of all demand against the Government of Spain growing out of the claim of this citizen of the United States.

While expressing to your excellency the gratification felt by the Government of the United States of an action so much in accordance with the well-known sense of honor of the Government of Her Majesty, I beg to inform your excellency that I am ready at any moment, as your excellency suggests, to arrange the details of payment, in order that this question which your excellency admits to have been tedious and annoying, may, as soon as possible, be finally removed from the consideration of both governments.

I have called your special attention to this correspondence because it contains in the explicit language of the Spanish Government itself the strongest and fullest statement of the case which can be made.

You will observe that the Spanish Government declared that it will make this payment "animated by the desire to fulfill the engagements formerly contracted." You will observe further, that the Spanish Government admits that its orders for the restoration of this property have been disobeyed by its own officials. Still further, you will observe that instead of the one million and a half of dollars which it promised as indemnity to Mora, the Spanish Government has received over \$2,000,000 from the property which its own highest authority declares to have



been unlawfully confiscated. According to the Spanish Government's own statement, this is no longer "a claim of Mora," however much the justice of that claim may have been the basis of this honorable action, but in the language of Mr. Curry, the minister of the United States, "the case was raised from the debatable and negotiable ground which it had previously occupied to the height of an international compact, binding upon both governments."

You will again observe that by the explicit declaration of Señor Colantes the Government of Spain has given to the Mora claim a special character. By royal decree, which could not be revoked or repealed or lawfully disobeyed by any subsequent Government, Mora's property was ordered to be restored to him upon the ground that he was an American citizen, over whom the court-martial in Cuba had no lawful jurisdiction. If the property was not so delivered it was by open disobedience of the local Cuban authorities, and if this disobedience was neither disavowed nor corrected by the Spanish Government, then every day that this property was so tortiously held the Spanish Government was responsible for the continuing tort. Under the pardon Mora's alleged offense was extinguished and he was an innocent and unoffending citizen of the United States, guilty of no transgression, actual or constructive, against Spain. Under the remission of the embargo the title to the property was undeniably in Mora. And the continuance of this forcible dispossession of Mora was a violation of the Spanish law, to the protection of which he was entitled by treaty, and a violation also of the international compact which professed to make restitution, for both of which, in the judgment of the President, the Spanish Government is responsible to the Government of the United States.

After ten years' existence of this condition of admitted right and persistent wrong, of full pardon and continued punishment, the Spanish Government again repeated its acknowledgment of the obligation. It acknowledged the wrongful possession of Mora's property, but asked that the Government of the United States should accept an indemnity in money, instead of an actual return of the property. But this indemnity is, to all intents and purposes, the property, and the same power which could have delivered the property can pay the money; for the money is only the representative of the property, which the Spanish Government actually held and from which it received profits far in excess of the amount offered; and the immediate payment of that amount is as absolutely obligatory upon the Spanish Government as the delivery of the property. This statement is confirmed by the language of M. Moret himself in defending the settlement before the Cortes:

The property was ordered to be restored \* \* \* but it was not restored. Two of the plantations, the San Joaquin estate and the American estate, were abandoned, and the other plantation, the Australia estate, which was worth \$800,000, and which yielded every year 14,000 hogsheads of sugar, has been sold, no one knows how or for what reason, for \$160,000, which is an exceedingly small consideration in comparison with its real value.

And in the same speech, on the same day, he admitted that the estates yielded \$2,317,000, and that the money had disappeared.

It was impossible for this Government to anticipate that there could or would be any further discussion of this transaction. It would have been indecorous and offensive to the proverbial good faith of Spain for this Government to have permitted a suspicion that the just and liberal Government which made this compact would ever desire to repudiate it, or that the strong and wise administration which negotiated it would have failed to give it effectual support in the Cortes. Especially is this

difficult to understand in face of the fact that when, in February, 1888, Señor Lastres, a member of the Spanish Cortes, introduced a resolution repudiating the agreement between Señor Moret and Mr. Curry for the settlement of the Mora claim, and directing the Government not to pay anything on this account, the resolution was defeated by a vote of 170 against 47. Why should the Cortes, which refused to censure the settlement, be willing to defeat its execution? Or how can such a condition be assumed in the face of this declaration of Mr. Moret to Mr. Curry, May, 1888:

It is my duty to say further that for the purpose in view it is of no consequence and makes no difference at all that the item referred to by your excellency has not been put into the budget of Cuba for the present year, because the Government can at any time introduce a bill in Congress asking for such appropriation as is necessary.

In view of all these facts it is with the profoundest regret that the President finds himself compelled to follow the recent history of this negotiation from the date of the absolute settlement of 1886.

When it became the duty of the Spanish Government, after this settlement, to place the proper charge upon the Cuban budget, the Cortes was suspended pending its discussion. In the ensuing session the subject became one of very earnest discussion. As already stated, a motion to censure the Moret settlement was rejected by a vote of 170 against 47, but no action was taken for the payment of the indemnity. In the discussion of the question and in defense of the settlement, Mr. Moret, the Spanish secretary of state, who it may be said vindicated its justice with admirable force and clearness, used language which created some doubt as to his conviction of its absolute finality.

Mr. Curry, the minister of the United States, immediately called the attention of the secretary to the omission of all provision for the payment of the indemnity, saying: "I hope that your excellency, in behalf of your excellency's Government, will give me such assurances as will dispel and reject far away from my mind any suspicion which may have arisen out of the omission to which I have the honor to call the attention of your excellency."

The reply of the secretary, May 12, 1888, was not satisfactory. While he did not repudiate the agreement or propose to reopen any discussion of its merits, he did indicate the desire to postpone its execution and to make its actual payment dependent upon other cases with which it had no possible connection. Immediately after this reply, Mr. Moret was transferred to another position in the Spanish cabinet, and was succeeded by the Marquis de la Vega de Armijo.

To the new secretary Mr. Curry addressed a communication, June 30, 1888, containing a summary history of the case, which I commend to your careful consideration. I quote its conclusion:

I have taken the liberty of making the above summary in order that your excellency may observe how important, from an international point of view, is the position occupied by this subject. By the distinct proposition of the Spanish Government to pay \$1,500,000 in full discharge of the claim and by the distinct acceptance of this proposition on the part of the United States, the Mora case was raised from the debatable and negotiable ground it had previously occupied to the height of an international compact binding upon both governments. For the early and final disposal of the question, the Government of the United States, therefore, relies with confidence upon the justly celebrated promptness and punctiliousness with which the Spanish Government fulfills its engagements, and awaits with interest any information which your excellency will transmit through me as to the methods and details of payment.

You will, I am sure, have noticed that during the whole of this long and sometimes irritating controversy from the order of restoration of Señor Collantes to the last communication of Señor Moret, the discus-



sion had been conducted with marked good temper and courtesy. While unnecessary and inexplicable delay has sometimes tried the patience of the United States Government, it has never suspected that there was any dangerous reserve in the purpose of Spain, or that there was any but the most honorable anxiety on the part of the Spanish Government to make just reparation for the great wrong to an American citizen, which it so frankly admitted. You may judge then of the surprise of the President when he read in the reply of the Marquis de la Vega de Armijo to Mr. Curry, of August 7, 1888, these words: "You, with your good judgment, will not fail to understand the impossibility of contending with success against the opinion of Parliament and the country, when they both see that while Spain has duly paid all claims presented by the United States, the day never comes when the claims which have for so many years been presented in their turn by Her Majesty's Government are attended to and paid. Hence, there results an inequality which has no place in the rectitude and impartiality of the men who succeed each other in the Government of the Union. The Cortes of the Kingdom, I am convinced, will not fail to vote the necessary appropriation for the payment of the Mora claim, if they understand that this payment coincides with the payment of the Spanish claims to be effected by the American Government."

Mr. Belmont, who succeeded Mr. Curry, was instructed to submit to the Marquis de Armijo the views of this Government in reply to this extraordinary communication, and on the 16th of February, 1889, he thus informed the Department of the result of this interview:

The minister replied that his Government was entirely powerless as concerned the payment of the claim, without the approbation of the Cortes. The unfavorable and unfriendly attitude of the house of delegates had forced his predecessor, Señor Moret, to withdraw from the position which he had taken in the notes agreeing to pay the claim and fixing a sum to be provided for in the Cuban budget, and had obliged the Government to fall back upon the assurance that no separate or prior provision was to be asked for the Mora claim, but that the amount necessary for its payment was only to be requested as one of the details of a plan of general settlement of all claims pending between the two governments.

In a speech delivered by the Spanish secretary of state in January last (1889) in explanation to the Cortes of his position, he said, referring to the former negotiations:

It is not possible for any government to refuse entirely to a foreign nation what had previously been offered to her under the signature of an official having full authority to conduct the foreign relations of the country. \* \* \* What can be done is to endeavor to give them a new aspect (*una nueva faz*), and I hope and trust to get out of this business without needing to come to Parliament and ask it for resources.

If the reply of the Marquis de Armijo to Mr. Belmont is to be interpreted in connection with this language, if what the Spanish secretary of state means is that while he recognizes the validity and finality of the settlement of 1886, he wishes by further negotiation to induce the United States to postpone its demand for actual payment, you will consider it your duty to close the discussion. You will say that while the President of the United States is compelled to express his grave dissatisfaction with any prolongation of what he can not but consider an exhausted discussion, he has given due consideration to the proposition and that it can not be accepted. You are further instructed to say that, in the judgment of the President, the Mora case has no connection with or relevancy to any other pending claims; that it has been admitted fully and unequivocally by the Spanish Government; that by the most formal and sacred of international compacts the faith and honor of the Spanish Government have been directly pledged to its



actual payment at a particular time, in a declared manner, and in a specified amount; that in order to secure that payment the Government of the United States has consented to a large reduction of the indemnity which it considered justly due to one of its citizens; that long delays, which have borne with distressing hardship upon the aged claimant, have been submitted to, if not with acquiescence, at least with patient faith in the honor of Spain, and that the time has come when the President expects with all confidence from the Government of Spain the fulfillment of its deliberately assumed obligations.

You will add that any arrangement which, securing the actual payment of this indemnity, is most convenient to the Spanish Government and its methods will be cheerfully accepted.

You will add further that while the Government of the United States does not consider it consistent with its old and genuine friendship with Spain to reply, in the same censorious and unfriendly spirit, to the complaint of the Marquis de Armijo that we have failed to meet the claims of Spain with just consideration, you are specially instructed to say that the Government of the United States is not aware of any claim or representation of Spain that has not received prompt and respectful consideration. And while there may be differences of opinion between the two governments the United States is ready and will be glad to consider any arrangement for the examination and settlement of any and all claims which the Spanish Government is prepared to submit to its attention. But the President is unwilling to allow the execution of the absolute settlement of the Mora case to be made dependent upon the further settlement of other claims, however strong, which are still the subject of diplomatic discussion between the two governments and which have never approached final adjudication. The President, moreover, expresses his surprise that the Spanish Government should claim to retain in its hands the millions which it admits were violently and unlawfully seized from an American citizen, to hold the sum in reprisal for other claims which may be rejected, or as a means of compelling this Government to a speedier administration of that justice which its own self-respect has never permitted it to delay or to refuse.

The conduct of this discussion may be safely trusted to your own tact and ability. You will place these views of the President before the Spanish secretary of state with the temperate firmness of language which is the best expression of honest conviction, and the President desires that you will be especially careful not to say anything which could give any possible appearance of intentional discourtesy, much less of threat, towards the Spanish Government.

I will not anticipate in this instruction the possibility of a final denial of justice by the Spanish Government. But if, unfortunately, the language which I have quoted from Marquis de Armijo's reply to Mr. Belmont is intended as a distinct refusal on the part of Spain to redeem her pledges; if it is, as it must then be considered, a positive repudiation of the absolute settlement of the Mora case in 1886, you will express the grave regret and disappointment of the President at such conclusion. You will communicate immediately this unfortunate result, and you will decline any further discussion of the subject until you shall have received the explicit instructions of your Government.

You will read this dispatch to the secretary of state, and if he desires, will leave with him a copy.

I am, etc.,

JAMES G. BLAINE.

*Mr. Wharton to Mr. Palmer.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, July 30, 1889.

Have you no information as to Mora case for us?

WHARTON.

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*Mr. Palmer to Mr. Blaine.*

No. 17.]

LEGATION OF THE UNITED STATES,  
Madrid, July 31, 1889. (Received August 16.)

SIR: In acknowledgment of the Department's No. 3 of May 30, last, giving full details of the present status of the Mora case and instructing me to leave a copy with the minister of state, I have the honor to report that an earlier reply has not been sent because since my assumption of the charge of the legation, on June 17, I have devoted myself to examining the full correspondence on file in the legation in reference to the subject and to acquainting myself with the situation of men and things at this court, so that I might act understandingly, not only as to the merits of the case, but also as to methods which would most likely insure success. In other words, I desired to *orient* myself.

The impression which I have received from an examination of the record of the case is that the Government is entirely dependent upon the Cortes for the means of meeting the obligation which it has contracted. If the property of Mr. Mora were in existence and withheld from its owner by an executive order, an executive order could release and return it, but as the property has disappeared and must be replaced by money, I can find no ability in the Government to raise the money without an authorization or appropriation from the Cortes.

It is unnecessary for me to call the attention of the Department to the attitude of watchful hostility which has been adopted toward the claim by the Cortes which has just closed its session. In the debate of February, 1888, the Government secured its majority of 170 to 47 against the motion of censure of Señor Lastres by the explicit declarations of Señor Moret that a separate appropriation would not be asked in behalf of the Mora claim, unless some provision were at the same time made for the payment of Spanish claims against the United States, and in the debate of January, 1889, the withdrawal of another resolution was effected by an assurance to the same effect, given by the Marquis de la Vega de Armijo.

In my No. 15, of 29th instant, I have attempted to give some account of the course of events which resulted in the abnormal political situation, and of the success of the factions of the opposition in defeating every effort on the part of the Government to proceed, not only to the discussion of most important legislation, but even of the budgets for the new fiscal year. As the Government was also daily expected to suspend the sessions, I could see no advantage in an immediate presentation of the question to the minister of state, and I concluded that it would be better to defer it until the autumn, when the political atmosphere shall have cleared up, or when there may be a new government or a new Cortes, or both.



I arrived at this decision with some delicacy, but believing the time of the delivery of the instruction was to some extent left to my discretion and that the Department will realize that if the instruction had been presented by the Government to the house of deputies in addition to the other correspondence which is before it, or if the appropriation had been asked for, the whole question which in calmer moments has excited such bitterness, would in the present heated temper of the house have been seized with delight by the opposition as another weapon of arraignment of the Government, not only for the purpose of effecting the rejection of the appropriation, but even of endangering the existence of the present liberal administration.

In the mean time, as the instruction of the Department in general terms expresses the entire willingness of the Government of the United States to enter upon the consideration of the Spanish claims, it would undoubtedly be of service to me in the negotiation if the Department would inform me as to its reply to the proposition of the Marquis de la Vega de Armijo, reported to the Department in the legation's No. 362, of October 22, 1888, recommending that the claims of Spain be examined by a representative of the State Department in conjunction with the Spanish minister at Washington.

I have, etc.,

T. W. PALMER.

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*Mr. Palmer to Mr. Blaine.*

[Unofficial.]

LEGATION OF THE UNITED STATES,  
*Madrid, July 31, 1889. (Received August 16.)*

MY DEAR SIR: In characterizing this communication as above (unofficial), I am impelled thereto by a sense of delicacy in appearing to criticise even remotely or by indirection the able instruction forwarded me of date May 29, and I, therefore, by such characterization leave it to your discretion whether it shall appear upon the files of the Department of State or not.

When I talked with Mr. Trescot he left me under the impression, and I think stated in express terms, that I was to communicate verbally to the Spanish minister of state the substance of the conversations I had with you, and afterwards with him, on the subject.

The instruction apparently leaves me no alternative but "to read the despatch to the Secretary of State and, if he desires, to leave with him a copy."

Under the circumstances, believing that nothing could be accomplished by affirmative action on my part during the then pending session of the Cortes, where all business had been blocked for the past two months and a half by the obstructive tactics of the opposition, and becoming daily more conversant with the case and better acquainted with the spirit of the people with whom we had to deal, I concluded that the safest course would be for me to ask for further instructions in the matter.

I, therefore, at the risk of being considered superserviceable in the premises, beg leave to submit the following views, deprecating any inference to be drawn therefrom save the entertainment by me of a sincere desire to promote the interests in hand without imperiling the dignity of my country and the Department of which you are the head.



In my despatch No. 17 of this date, I have reported officially to the Department my reasons for deferring the delivery to the minister of state of the Department's instructions No. 3 of May 20, 1889, in reference to the Mora claim. Inasmuch as all the correspondence up to date is before the Cortes, which has regularly called for all the documents in the case, the leaving of a copy with the minister of state virtually amounts to bringing it before the House of Deputies. As there is so much hostility displayed by that body to the claim, I have thought that the instruction, if presented, should have as few points as possible open to attack. In its present form there appears to me to be several statements in it which are not entirely borne out by the record, and I have, therefore, thought it advisable to call your attention to them with a view to securing their alteration or suppression, should such suggestions meet your approbation.

In the first place the statement of facts contained in the first twenty pages of the instruction are admitted by the present minister of state as well as by his predecessor. Neither in the note of Señor Moret of 12th April, 1888, as is indeed admitted in page 27 of the instruction, nor in the notes of the Marquis de la Vega de Armijo of August 7 and October 15 of the same year, is any attempt made to deny that there has been a promise on the part of the Government to pay the claim or, as far as the administration is concerned, to repudiate the engagement resulting from that promise. The purport of those notes was not to avoid the obligation, but to secure some means which in the opinion of the writers would enable the Government to go before the Cortes and secure the appropriation necessary for the execution of that obligation.

On pages 23 and 24 of the instruction is the following:

It was impossible for this Government to anticipate that there could or would be any further discussion of this transaction. It would have been indecorous and offensive to the proverbial good faith of Spain for this Government to have permitted a suspicion that the just and liberal Government which made this compact would ever desire to repudiate it, or that the strong and wise administration which negotiated it would have failed to give it effective support in the Cortes. Especially is this difficult to understand in face of the fact that when, in February, 1888, Señor Lastres, a member of the Spanish Cortes, introduced a resolution repudiating the agreement between Señor Moret and Mr. Curry for the settlement of the Mora claim, and directing the Government not to pay anything on this account, the resolution was defeated by a vote of 170 against 47. Why should the Cortes, which refused to censure the settlement, be willing to defeat its execution?

In the above statement it is reasoned that if the Government could defeat a resolution of censure by such a large majority, the Government ought to have been able to secure the appropriation. To show that this reasoning is erroneous I will quote from Mr. Curry's No. 310, of April 2, 1888, in which, after giving a summary of the debate, he says:

The debate occupied the whole of one day, February 23, and continued on the next day, February 24, when, in addition to the speakers above mentioned, and several others belonging to the opposition, Señor Villanueva and Gen. Pando, Cuban deputies on the Government side of the house, both opposed its payment. The most important speech was made by Señor Romero Robledo, the leader of the party called the Reformistas, who had on several previous occasions shown his opposition to the claim. While he expressed himself as unwilling to pass anything that was equivalent to a vote of censure upon the minister of state, he desired to avoid the unjust payment of 37,000,000 reals. Could any formula be found for avoiding this? This is left to the discretion of the Government and the majority. Whatever this formula was, if it could be found, it would have his vote in its defense.

"Will the minister of state or the Government," continued the speaker "give to the country and its representatives the consoling hope that the payment will not be made, or, to put it better, that the appropriation will not be asked of the Cortes until the condition of reciprocity is realized and executed? If the Government agrees

to this, not only will I decline to vote for the resolution but will forbear troubling the Government about it until the question of the appropriation is presented to the Cortes in the shape of a bill in reference to this most serious matter."

The minister of state, who, on the previous day and up to this time had defended his position with singular ability and force, seemed at this time to weaken in the face of the general attacks upon him, and to fear an adverse vote on the resolution, which would be equivalent to a vote of censure against him personally. Only on such grounds is explicable his taking advantage of the offer of Señor Romero Robledo and making the following statements in his closing speech:

"I have always sustained and I repeat that the negotiation referring to the North American claims, and in this I am entirely of the opinion of Señor Romero Robledo, is a negotiation which is not terminated."

And again Señor Romero Robledo has had the goodness to put a question to me which I am going to answer categorically.

"This question is whether the Government will engage itself not to bring here the question of the North American indemnities without uniting to them the principle of reciprocity. I have no authority for any thing else than for this. When I obtained the complete authority granted me by my companions to pursue this negotiation, I founded it on this principle." These declarations were received with great applause and accepted as satisfactory by leaders of different sections of the house. The result was that the resolution was defeated by 170 votes to 47.

It is unnecessary to state that the concession made by Señor Moret is directly opposed to his explicit promise to pay the Mora claim. This promise was made before the question of the Spanish claims was even suggested, and as soon as an official report of the debate was published a prompt protest was made against the above statements, as will be seen by the inclosed copy of my note of March 5 last.

In Mr. Belmont's No. 4, of February 16 last, quoted on page 32 of the instruction, is the following:

The minister replied that his Government was entirely powerless, as concerned the payment of the claim, without the approbation of the Cortes. The unfavorable and unfriendly attitude of the House of Deputies had forced his predecessor, Señor Moret, to withdraw from the position which he had taken in the notes agreeing to pay the claim and fixing a sum to be provided for in the Cuban budget, and had obliged the Government to fall back upon the assurance that no separate or prior provision was to be asked for the Mora claim, but that the amount necessary for its payment was only to be requested as one of the details of a plan of general settlement of all claims pending between the two Governments.

It will, therefore, be seen that the majority of 170 to 47 obtained by the Government in the vote on the Lastres resolution, instead of being indicative of a favorable attitude on the part of the Cortes was only obtained by an express pledge on the part of the Government that no appropriation would be asked for of the House for the payment of the Mora claim, unless accompanied by some arrangement of the claims of Spain against the United States.

I again beg to quote from page 20 of the instruction:

This indemnity is to all intents and purposes the property, and the same power which could have delivered the property can pay the money, for the money is only the representative of the property, which the Spanish Government actually held and from which it received profits far in excess of the amount offered; and the immediate payment of the amount is as absolutely obligatory upon the Spanish Government as the delivery of the property.

While the money does represent the property, it must be admittey that the Government does not bear the same relation toward the moned as it would bear toward the property. If the property were now in existence and under an embargo by an executive order, a mere order of the Government could restore it. The property, however, no longer exists, and the only method of obtaining the \$1,500,000 is by an appropriation from the Cortes, nor has the Government any authority to raise a loan for any purpose, unless it is approved by law. This is clear from article 86 of the Constitution of 1876, which is now in force and which reads as follows:

The Government must receive authority by law in order to dispose of property of the State, or to raise money by loan on the credit of the nation. (El Gobierno ne-



cesita estar autorizado por una ley para disponer de las propiedades del Estado y tomar caudales a prestamo sobre el crédito de la Nacion. Article 86, Constitution of 1876.)

The Government is, therefore, absolutely dependent upon the Cortes in the case of the money, while in the case of the property sequestered by an executive order it would be independent.

On page 7 of the instruction I find:

The reports and records of the Spanish courts and officers proved that the Royal Treasury at Madrid had in the meantime received from the illegally confiscated property of Mr. Mora not less than \$2,000,000.

And on page 38:

The President moreover expresses his surprise that the Spanish Government should claim to retain in its hands the millions which it admits were violently and unlawfully seized from an American citizen.

On page 117 of the record of the Mora case No. 48, before the Claims Commission, in the report of Carlos Laurent, notary public, dated Havana, March 30, 1876, made upon examination of the papers in the case of bankruptcy of Don José Maria Mora and Don Antonio Maximo Mora, is the following:

Third. That as stated by the syndicos or trustees at page 1635, said trustees received, from the date in which they took possession of the estates up to the 1st of September ultimo, \$2,055,662.82, and that, according to posterior accounts, they also received between the said date and the 31st of December ultimo, \$140,074.49; so that the whole amount received by said syndicos up to December 31st ultimo is \$2,195,737.31.

Fourth. That Don Rufino Sainz and Don Pablo Aranguren are the syndicos, assignees, or trustees, and that they were elected such by the creditors at a special meeting for the purpose.

Fifth. That said syndicos have given no bonds or securities of any kind which were not asked for by the creditors.

According to the record, therefore, the above amount seems to have been absorbed or embezzled by the representatives of Mr. Mora's creditors and it can scarcely be said that it has entered into the public treasury in Madrid. Although the Spanish Government is responsible for the waste or dissipation of said estate consequent upon the act of sequestration, it does not appear that any of the proceeds of said estate ever found its way into the Spanish treasury, or even into the hands of the agents of the Government.

Finally, on pages 37 and 38 of the instruction, it is stated:

\* \* \* You are specially instructed to say that the Government of the United States is not aware of any claim or representation of Spain that has not received prompt and respectful consideration. And while there may be differences of opinion between the two Governments, the United States is ready and will be glad to consider any arrangement for the examination and settlement of any and all claims which the Spanish Government is prepared to submit to its attention.

In his note of October 15, 1888, which was sent to the Department of State in the legation's No. 362 of October 22, 1888, a proposition was made by the Spanish minister of state that the Department appoint some one to meet the Spanish minister at Washington for the purpose of making an examination and reporting upon the claims of Spain against the United States. This was a counter proposition to the proposal for a commission made by the previous administration, which seems to have appreciated to a certain extent, as will be seen from Bayard's No. 4, December 18, 1888, the difficulties of the Spanish Government in dealing with the Cortes on the question of the Mora appropriation, and to have begun negotiations looking towards making



some provision for the settlement of the Spanish claims. In his No. 4, February 16, 1889, Mr. Belmont says:

In accordance with your instructions, I then suggested that in the hope of aiding the Spanish Government in arriving at a satisfactory solution and of placing it in a more favorable position for securing the necessary appropriation the Government of the United States might be willing to make some agreement looking to the submission to arbitration of the claim of Maza and Larrache, which was the principal claim urged by Spain against the United States.

The minister stated in answer to this proposal that it was manifest from the terms of the interpellation and debate on the Mora claim that there had been no diminution in the hostile temper of the House of Deputies on this question. In view of the declarations which the Government has been compelled to make to the House, the only method of presenting the Mora claim to that body with the hope of securing the necessary appropriation was to present it with a plan of general settlement. It was, therefore, impossible to select special cases on either side, such as the Mora case on one side and the Maza-Larrache claim on the other. The difficulties under which the Spanish Government labored had been made known to the Government of the United States, which responded by submitting the draft of a convention for a new commission.

This proposition the Marquis de la Vega de Armijo had found pending on his entrance into the ministry of foreign affairs, and in his note of October 15 last (transmitted to the Department in Mr. Strobel's No. 362, of October 22) he had given his reasons for regarding the suggestion as impracticable. He had submitted, however, in the same note, a counter proposition of what he believed to be a simple and prompt method of settlement, namely, an examination and report by the Spanish minister at Washington, and some commissioner appointed by the Department of State, subject to the approval of the two Governments, to be taken as a basis for the payment of the claims of Spain against the United States; this being done on the same principle as the report of Messrs. Strobel and Figuera, which was to be used as the basis of the payments of the claims of the United States against Spain, in addition to the Mora indemnity. This correspondence had been submitted to the House of Deputies, which was fully aware that the negotiations no longer involved the settlement of any special claim, but of all the claims. He was met, therefore, at the outset by an unavoidable difficulty which prevented the consideration of any special claim on either side, nor did he believe that the negotiation could proceed until he had received the answer to his proposition or until some other method of general settlement had been discovered.

Not having received any instructions in reference to the minister's proposition contained in his note of October 15, 1888, which he evidently makes a preliminary to further negotiations, I closed the interview and hasten to communicate its details.

It would, therefore, be an advantage if in the place of the general assurances contained in the instruction of the willingness of the Government of the United States to consider any arrangement for the examination and settlement of the Spanish claims, there might be substituted some definite reply to the proposition of the Marquis de la Vega de Armijo which has been now pending for about a year.

I have made the foregoing suggestions thinking that the points therein adduced had, through inadvertence, not been brought to your notice, and that the presentation of the instruction of May 20 in its present form would retard rather than expedite the result desired, viz, the payment of the claim.

Again, with a people of the peculiar temper of the Spanish nation, the presentation of the instruction, connected as it is with the subject of Cuban relations, on which their sensibilities are extreme, may be followed by grave complications, in which case it would be highly desirable that our position should be unassailable and our deductions incontrovertible.

Should my views meet with your approval, an amended instruction will be desirable for presentation; if not, I will present the instruction as it is on receiving from you an intimation of your wishes in the premises.

Yours, very respectfully,

T. W. PALMER.

*Mr. Palmer to Mr. Blaine.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
*Madrid, August 1, 1889.*

Instruction in Mora case not yet presented. Have written the Department of State asking further instructions.

PALMER.

*Mr. Palmer to Mr. Wharton.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
*Madrid, August 10, 1889.*

Letter addressed Blaine, the Department of State, and marked unofficial, mailed August 3, should be read in connection with the note numbered 17 of official note stating I had not put in Mora instruction.

PALMER.

*Mr. Trescot to Mr. Blaine.*

WASHINGTON, *August —, 1889.*  
 (Filed under August 31, 1889).

DEAR SIR: As counsel for the claimant, I have been kindly permitted to read the last two dispatches of Mr. Palmer, the United States minister at Madrid, in reference to the Mora claim.

I ask leave to lay before you, respectfully, the impressions made upon those largely and directly interested by these communications.

Of these dispatches, one, No. 17, July 31, 1889, is official, and the other, of same date, which is a fuller and more elaborate consideration of the case as presented by the instruction of the Department, No. 3, May 30, 1889, is marked "unofficial."

There is also this difference between them: The first, the official dispatch, is an information to the Secretary of action which the minister has deemed it judicious to take. The second is the expression of certain opinions of the minister submitted to the Secretary as ground for a desired modification of his original instruction.

As to the first, we recognize, without question, the right of the minister to exercise his discretion, subject to the approval or disapproval of the Secretary of State. We further recognize that this question is entirely within the judgment of the Secretary, for when the Government assumed the representation of the claim, it did so with the acknowledged consequence that the extent of its action and the manner and methods of its procedure were within the absolute control of the Department of State.

Nor do we propose to criticise this exercise of the minister's discretion. We can readily understand that being on the spot and familiar with the political exigencies which must more or less control diplomatic action, he may have found, in circumstances not as well known at home, reasons to consider the literal obedience to his instructions inopportune and calculated rather to hinder than help the very interests which it



was his duty to protect. How far his instructions were absolute is to be determined by the Secretary of State upon the statement of facts made to him.

But we venture to suggest that under the circumstances the promptest information should have been given to the Department of the conditions which seemed to impose delay in the execution of the instructions.

We also feel warranted in asking your attention to the fact that your original instruction was in reply and was the only reply of this Government to the decision of the Spanish secretary for foreign affairs communicated as far back as February 4, 1889, by Mr. Belmont, at that date United States minister to Spain. The long time which has elapsed since this communication had been received, owing to the change of administration and ministers, made it very important that the dissatisfaction of the United States Government should at the earliest moment possible be made known to the Spanish Government.

Recognizing, therefore, that the discretion of the minister in delaying the reading of his instructions might have been judicious, we can not help thinking that the interests of the case and the position of the Government would not have been embarrassed if the minister had called upon the secretary of foreign affairs and said: That the Mora case was in such a condition that the United States Government felt its early settlement to be a matter of grave importance to the unbroken friendly relations of the two countries; that he had been specially instructed to ask the most earnest and prompt attention of the Spanish Government to the subject; that in the present excited condition of political feeling in the Cortes he was unwilling to do anything which might embarrass the ministry or endanger the case itself by inopportune insistence, but that he must express the hope that between the suspension of the Cortes and its reassembly in October the secretary would be prepared to take up the matter with a view to its final settlement.

That, it seems to us, would have been notice to the Government that there was no acquiescence in the decision which Señor Armijo had announced to Mr. Belmont, and that the subject would have to be most seriously considered.

The minister may have had such an interview, but he does not say so.

But it is not so much the action of the minister in withholding the immediate presentation of his instruction as the views which he takes of the case itself in his unofficial communication that causes our apprehension.

In this communication the minister calls attention to the following paragraph of your original instruction:

The President, moreover, expresses his surprise that the Spanish Government should claim to retain in its hands the millions which it admits were violently and unlawfully seized from an American citizen.

Mr. Palmer says that this is not true, and submits certain facts and reasonings in support of his opinion. I will not follow the details of his argument, but content myself with what I consider absolute refutation.

Mr. Moret, the Spanish minister of foreign affairs, and the negotiator of the settlement, on 28th of January, 1888, said, in reply to Señor Lastres and Señor Romero Robledo:

I shall now enter into certain details with which I am sorry to trouble your attention, but I will try to be as concise as I can possibly be. I can not omit speaking about them because the assertion made by Señor Romero Robledo in regard to them, clear and explicit as they are, are nevertheless founded on a capital error. \* \* \*



The principal argument in regard to this claim (Mora's) apart from its importance rests upon the fact clearly and precisely stated by the honorable gentleman that the Government has received nothing and has nothing to return. Would to God that this were true. Unfortunately, not one of these assertions is correct. \* \* \* The two Syndics, two Spaniards who had nothing to do with Mora or with the United States, addressed in March, 1876, officially to the governor-general of Cuba a petition saying as follows: "The estates intrusted to our care are going to ruin; we have had to contract debts to keep them in working order; the expenses to run them are considerable; this year it will be impossible for us to do any work on two of the plantations, and the sugar crops will not be gathered on the other plantations unless something out of those \$2,317,000 which have entered into the treasury, and of which we have seen nothing, and has not been used either to pay the expenses or to pay the creditors is given to us." This is clearly proved. But there is something more. The debts were \$794,000, so that these \$2,317,000 would have been sufficient to pay the debts and pay the expenses, and the estates would have been left clear of debt.

There is abundant official proof besides Mr. Moret's declaration which can be furnished in detail if you so desire. But I rest upon this official statement of Señor Moret, and I am surprised that it did not occur to Mr. Palmer that if in reply to your original instruction the Spanish Government had taken the ground which he has suggested, he had only to produce the declaration in the Cortes of the secretary for foreign affairs, and leave to the Spanish Government the impossible task of reconciling the two.

Mr. Palmer says in his dispatch No. 17: "I can find no ability in the Government to raise the money without an authorization or appropriation from the Cortes," and in his "unofficial" letter supports this opinion by quoting the following article of the Spanish constitution, article 86, constitution, 1876:

The Government must receive authority by law in order to dispose of the property of the state (national property) or to raise money by loan on the credit of the nation.

Now we have asked no disposition of the property of the nation, nor have we suggested any loan for the payment of the Mora claim. Spain has acknowledged in the most explicit and precise terms her indebtedness to the United States in the sum of \$1,500,000 and promised to pay it in 1887. We simply ask her to do so. We have no right to suppose that a responsible government did not know what it was doing when it made this promise, and certainly we have no right to assume that the government in power can not control its legislation until it tells us so. So far Spain has not said so, and I do not believe that she will. Just so long as we permit procrastination she will use it. But whenever a ministry in power admits the debt and the promise to pay, but pleads the refusal of the Cortes, that will be a new issue with which the United States has dealt before.

When Señor Moret offered the pecuniary indemnity of \$1,500,000 he said it would be charged upon the Cuban budget "unless some other more expeditious means of immediate payment was found," June 30, 1886.

And we can furnish many instances in which the Spanish Government has paid awards and recognized indebtedness without making such payment an item in any budget or asking for special appropriation.

Indeed, Señor Moret recognized this when he said, in his speech of January 28, 1888, that he had tried, by making the charge on the budget, to avoid what the Government had been forced to do in the case of the *Virginus* and during the Cuban war—pay right away without the action of Parliament.

Referring to the resolution of censure, the vote thereupon in the Cortes, and the inference drawn from it in your instruction, Mr. Palmer says:

It will therefore be seen that the majority of 170 to 47 obtained by the Government in the vote on the Lastres resolution, instead of being indicative of a favorable attitude on the part of the Cortes, was only obtained by an express pledge on the part of the Government that no appropriation would be asked for of the house for the payment of the Mora claim, unless accompanied by some agreement of the claims of Spain against the United States.

The resolution offered by Señor Lastres was as follows:

The undersigned delegates, without waiving the right to occupy the attention of the Chamber on this subject when the Cuban budget is discussed, request Congress to be pleased to declare that in the negotiation concluded (ultimata) by the minister of state in the case of Antonio Maximo Mora, the said minister has set aside the decision of the umpire and violated the agreement of February 12, 1871; for if the action of said minister prevails, the treasury of Cuba would lose \$1,500,000 and a bad precedent would be established for other analogous claims.

Whatever may have been the exigencies of the debate, the result was according, to the official report, that the reformists, headed by Romero Robledo, did not vote. The Republicans did not vote and the ministers, at the request of Moret, did not vote, and, "en la majorio no nuba alteracion visible," the ministerial majority was unanimous, from which I submit that the inference is conclusive.

As to what M. Moret may have felt obliged to say, Mr. Palmer himself says that the Spanish Government has never denied "that there has been a promise on the part of the Government to pay the claim or, as far as the administration is concerned, to repudiate the engagement resulting from that promise. The purport of those notes was not to avoid the obligation, but to secure some means which in the opinion of the writers would enable the Government to go before the Cortes and secure the appropriation necessary for the execution of that obligation."

If, therefore, Señor Moret, as Mr. Palmer considers, did pledge himself not to ask for "the appropriation necessary for the execution of that obligation," unless the United States would agree to a condition which never entered into the original agreement, then he has violated his promise to the United States and has placed himself in an inconsistent and not very creditable position, which I think Mr. Palmer might very well leave him to explain himself.

I have called your attention to these points because I think that it is due to the claimants that you should feel assured of the carefulness, conscientiousness, and accuracy with which they made their statements when the case was submitted to the consideration of the Department.

None of them affect the direct issue in the case. That is perfectly simple. The claim for something over \$4,000,000, resting upon the official returns of the Cuban officials, was in principle admitted by the Spanish Government and the most solemn pledges made for the immediate restoration of Mora's property. For more than twelve years these pledges were unredeemed. At last, in 1886, the Spanish Government, explicitly recognizing its obligations, offered to the United States that as the estates could not be returned, it would pay to the claimants the sum of \$1,500,000 in exchange for a receipt in full of all claim upon the estates and compensation for losses and damages. This proposition was accepted. This compromise was offered after the Spanish Government had full time to examine the case thoroughly and had so examined and determined for itself what it would be advantageous to offer, Señor Moret himself declaring to the Cortes that it was a settlement most favorable to Spain.

As far as the claimants are concerned the case now starts from that point. Neither party to the compromise can go behind it. Whether the Government received or did not receive certain moneys from the



estate, whether any questions of bankruptcy could intervene between the responsibility of the Government and the claims, have all been deliberately considered by the Spanish Government, and there is no question to-day between the parties. Spain acknowledges a debt of \$1,500,000, and promises to pay it. The United States and the claimants are ready to give the proper receipts. There is no room or occasion for further discussion.

As to the estates, they are certainly in existence, and they are just as certainly the property of Spain or Spain has sold them. But with this the claimants have no concern; they have accepted Spain's offer in full. The only question is whether Spain will fulfill her pledges. Will she pay the money? If she refuses, then the compromise she offered is broken. And the claimants, in possession of her formal recognition of the debt—the official accounts justifying the estimate of \$4,000,000—the admission by the secretary of foreign affairs of the receipt into the treasury of \$2,317,000—have the right to insist upon their original claim.

If Spain admits the debt and asks only time, any reasonable time and method of payment will be accepted. As to difficulties with her own Cortes, the Government of the United States can not officially consider them. No Government holding a ministerial majority in the Cortes can afford to make or will make such declaration. We honestly believe that all such pretense is simply procrastination which will be continued as long as it is endured. If it is a real difficulty and not a mere party embarrassment which time and decision will cure, then let the Spanish Government say so distinctly and take all the discredit which such a declaration will carry with it before the world. But we do not believe that, with firmness and the ability which our minister unquestionably possesses, any such issue will come if the real point of the case is placed distinctly and resolutely before the Spanish Government.

And we most earnestly entreat that Mr. Palmer be fully and clearly instructed, as we think he has been, that payment in the Mora case can not be made dependent upon the settlement of any other questions or cases under the consideration of the two governments.

The compromise of \$1,500,000 which was offered by Spain and accepted by the United States was made and accepted without the slightest reference or relation to any other cases. It was a negotiation and a settlement complete in itself, absolutely free from all other connection, and it would be a violation of all diplomatic custom or national faith to attempt now to force upon it conditions which did not then exist.

We do not wish to interpose the slightest difficulty to the settlement of any cases which the two governments may desire to settle. But this case has no connection in time or character with them, and it will not escape your attention that the conduct of the Spanish Government in this claim, so patiently argued, so long discussed, and so frankly admitted, is but a poor guarantee of either promptness or justice in those cases upon which Spain desires to make it dependent.

We will be prepared to submit to you any detailed information which, in your opinion, the consideration of this memorandum may require, whenever it suits your convenience, and hope that you will pardon the expression of our earnest conviction that it is most important to the interests of the case that Mr. Palmer should be in possession of the instructions of the Department by the time of the reassembly of the Cortes in October of this year.

Respectfully,

WM. HENRY TRESCOTT,  
*Of Counsel.*



P. S.—On March 28, 1877, Mr. Cushing received from the Spanish Government £102,575—half of the amount thus far awarded by the United States and Spanish Commission of Arbitration.

Being tired of delay he went directly to the premier, Señor Canovas del Castillo, instead of the secretary of foreign affairs, and with him arranged the payment, half cash, half in six months. The arrangement was made March 5, 1877; the first payment, March 23. No loan was made nor anything charged to any budget.

The second installment was paid to Mr. Lowell October 8, 1877. (See Foreign Relations of the United States, 1877, pages 500–503, pages 523–528.)

The award paid to Mr. Felix Pinto in 1885 was paid without any loan or charge on the budget.

The Spanish Government decided to pay, June 29, 1885, \$31,603 to Mr. Givin. The money was given to Mr. Foster, United States minister, October 31, 1885. The \$51,674 awarded June 27, 1885, to the owners of the *Masonic* to be paid in Washington within six months, without charge to the budget or loan.

We are informed that it is a common custom for the banks in Havana to discount the drafts of the Government upon the treasury of Havana and the custom-houses when money is wanted. And that there is no case on record of such draft being protested.

*Messrs. Shipman, Trescot, Rodriguez, and Page to Mr. Blaine.*

WASHINGTON, D. C., July 3, 1890.

SIR: Thanking you for the courtesy shown to us in our last interview in regard to the case of Mr. Antonio Maximo Mora, of New York, against the Government of Spain, we beg leave to submit to your consideration a few points which, in our judgment, will not only complete what was stated to you in refutation of the remarks made by Mr. Palmer against the instructions given him on this subject, but place beyond the possibility of a doubt the gross injustice which the Spanish Government has perpetrated upon Mr. Mora, by making him and his claim an instrument of coercion against the Government of the United States to force the latter to pay Spain what she alleges to be due to her.

We would state in the first place, in addition to the refutation, above mentioned, of Mr. Palmer's remarks, that the compromise suggested by Spain on November 29, and accepted by the United States December 7, 1886, was not the work of the Spanish department of state, or of the Spanish secretary of state, Mr. Moret. It was the work of the council of ministers, presided over by Mr. Sagasta, not in a figurative style and through a rhetorical expression, but as a matter of fact. So it appears from the letters of Mr. Moret to Mr. Curry of June 30 and November 29, 1886. So it appears from the *Official Gaceta*, and from all other daily papers of Madrid, which report, day by day, the transactions of the council of ministers, which is not simply a meeting of secretaries, but a body with its secretary, its records and its archives, with power to direct each minister to do what the majority decides.

The substitution of Mr. Moret by Marquis de la Vega de Armijo did not change the identity of the Sagasta cabinet and of its individual responsibility.

Señor Sagasta, the head of the Spanish Government, is now, and

always was, much more bound by that compromise than ever was Mr. Moret himself. The council over which he still presides decided by unanimous vote, first, that an amount of money should be offered your Department and Mr. Mora, as it was impossible to return his estates; and subsequently (five months afterwards), upon the acceptance of that proposition, that the said sum should be \$1,500,000, to be paid out of the Cuban budget of 1887-'88. In this transaction Mr. Moret was no more than the organ to communicate to the United States the resolutions passed by the council; as the secretary of the colonies was no more, in his turn, than the organ of the same council to put that item, as he did, in the budget.

We maintain that, as long as Mr. Sagasta remains at the head of the Spanish Government and continues to be the president of the council of ministers, the argument that Señor Moret lost his place because of the Mora compromise is gratuitous and out of place. Mr. Sagasta is always to be held responsible for the action of the Government over which he presides. If Marquis de la Vega de Armijo has any power to *change the face* (as he said) of an obligation contracted by his predecessor, Mr. Moret, he certainly can not claim any authority to touch an agreement entered into after long and mature consideration by the same council of ministers of which he is a member.

The council of ministers instructs its members, and its members must obey its instructions or resign.

When Mr. Cushing was minister of the United States in Madrid, and wanted the first awards of the Spanish commission to be paid, and met with difficulties and delays on the part of the Spanish secretary of state and of the colonial minister, he went directly to the head of the Government, Senor Canovas del Castillo, the president of the council of ministers, and the money, amounting to about one million of dollars, was paid. This is printed in the diplomatic correspondence of those days, and the volume and the page can be given without difficulty.

If Mr. Palmer would have done as Mr. Cushing did, and had an interview with Mr. Sagasta, the latter would have found it very difficult to undo what was done under his orders and by his command, or change its face.

The second point we desire to state refers to the fact that when the agreement was made to pay Mr. Mora the \$1,500,000 now withheld, a compromise by which Spain has acknowledged in the Cortes to have been benefited at least in \$3,000,000 or \$4,000,000, apart from saving herself, as Mr. Moret said, of a political danger, no condition was suggested for the payment, except the usual one that the receipt would be in full and cover everything in relation to the claim. Nothing was said of other claims, and nothing could be said either, because Mr. Mora has nothing to do with either the other creditors of Spain or with her debtors. Mr. Mora's claim was settled individually, separately, independently; and the council of ministers declared the settlement to have been so made because the Spanish Government desired to give one proof more of its consideration towards the Government of the United States and towards Mr. Curry.

But on the 18th of May, 1887, about five months afterwards, the idea of the so-called reciprocity came to the mind of the Spanish Government, and, as the records show, it happened in this way.

After the case of Mr. Mora was settled and terminated, as above said, the Spanish Government and the United States legation in Madrid undertook to settle some other pending cases of claims against Spain,



and appointed, respectively, as commissioners to that effect, the Spanish Government one of its officers named Mr. Figueras, and the United States legation its secretary, Mr. Strobel. Both commissioners did their work, of course, *ad referendum*, and made awards to the amount of \$328,392.

It must be observed that there was no connection between this audit and the Mora case. The Mora case did not belong to any of the classes of cases which had been the subject of controversy between the two governments. From its first presentation by the Government of the United States the Government of Spain had admitted its justice. The pardon of Mr. Mora and the actual absolute order for the restoration of his estates closed absolutely all controversy. All that remained to be done was the honest execution of the order. Nor was any fresh controversy made by the Spanish Government. The Government admitted all the facts and simply proposed a compromise in its own convenience, viz, to pay \$1,500,000 in lieu of the restoration of the estates. The only question in the Mora case is: Will Spain pay to Mora the \$1,500,000 which it offered in exchange for the estates which it admits to be his and and which it unlawfully holds in the face of the pardon and the order for restitution?

The cases which the Government of Spain now wishes to interpose between the securement of the Mora case are of an entirely different character, and most of them arose *long after* the Spanish Government had acknowledged its tort in the Mora case and pledged its honor to immediate restitution.

It appears from the following dispatch of Mr. Bayard to Mr. Belmont, that this special agreement or proposed agreement required, after its being deprived of its obnoxious provisions, the approval of the Senate of the United States.

The settlement in the Mora case, which was merely to substitute the payment of a sum of money to the restitution of the estates, which had become impossible, did not, nor could it, need any kind of intervention or assent of the Senate.

Mr. Bayard's dispatch reads as follows:

DEPARTMENT OF STATE,  
Washington, December 18, 1888.

SIR: \* \* \* Referring, therefore, to the Strobel-Figueras agreement, I have to say in the first place that the Department is not prepared to give it its approval without submitting it to the Senate. The reasons for this it is unnecessary to elaborate. But before so submitting the agreement, the Department would find it necessary to remove certain obscurities of expression creating an ambiguity in the memorandum signed by Mr. Strobel and Mr. Figueras on the 3d of May, 1887.

This ambiguity is in the clause relating to the payment of the claims against the United States, which reads as follows:

"Before the termination of the conference, the secretary of the Legation of the United States stated that he was authorized by his chief to declare that the Government of the Union, in just reciprocity for the conduct observed by the Government of Her Majesty the Queen Regent, was in its turn ready to proceed to the examination and settlement of the claims which Spain has pending with the United States in consequence of the cession of Florida and the war of secession."

In the Spanish text of the memorandum the words "examination and settlement" are represented by the words "examen y liquidacion," and the effect of the clause is believed to be that the United States would undertake to examine and liquidate the claims in question.

It is believed that this language is inadmissible in respect to the claims against the United States referred to in the memorandum. This Department has already shown, by the project of a convention lately submitted to the Spanish Government, its entire readiness to proceed to an adjustment and payment of the claims growing out of the war of secession. But as differences have arisen between the two governments, as in the case of Maza and Larrache, which you will find in Foreign Relations



for 1887, in regard to the principles which should control in establishing the liability of the United States, it will be necessary to find some method of reconciliation, which was not required in the case of the embargoed estates claims in which the principle of liability, being clear and unquestioned, are admitted.

These observations apply all the more strongly to the Florida claims, generally known as the "East Florida claims," in which the nonliability of the United States has always been asserted by the executive branch of this Government, which has held that the claims were settled and *res adjudicata*, and that our express treaty obligations in regard to them had been fulfilled, and that consequently it could do nothing in the matter without the concurrence of the legislative branch of the Government. For your information I inclose a memorandum on the subject, prepared in this Department.

I am unwilling that there should be any difference between the United States and Spain in respect to a clause which, in case the agreement received the approval of the President, even so far as to cause its submission to the Senate, and Spain paid the amounts against her, would at least create an honorable obligation on the part of this Government. This Department is unable to recognize *in limine*, as the clause in question seems to require, any obligation on the part of this Government to pay what are known as the East Florida claims. Nor could the President approve such a recognition so far as to submit it for the advice and consent of the Senate.

You are therefore instructed to inform the Spanish Government that the clause in question stands in the way of the submission of the Strobel-Figueras agreement to the Senate, since it is understood by this Department to be tantamount to a concession in advance by the Executive of the liability of the United States in respect to the claims referred to.

The clause thus objected to being removed, the proposition could be proceeded with and submitted to the Senate.

I am, etc.,

T. F. BAYARD.

PERRY BELMONT, Esq., etc.

Any attempt to make the settlement of the Mora case dependent upon the settlement of cases resting on entirely different principles and arising long after, is not only an absolute violation of the pledged faith of the Government of Spain, but a proceeding so irregular and so inconsistent with all the recognized principles of diplomatic negotiation as to be utterly destructive of that mutual confidence between nations which, is after all, the only security for the amicable solution of international differences.

We must repeat, therefore, that the application of this condition to the case of Mr. Mora is an intolerable act of reprisal or coercion, by means of which the Spanish Government attempts to force the United States to give its approval to Mr. Strobel's promise. So it was that the budget wherein a provision had been made to pay Mr. Mora's claim was not acted upon; that the Cortez were suspended; that no provision was made in the budget of the subsequent year; and that to-day, in 1890, Mr. Mora finds himself as far from getting his money as he was in 1886.

Mr. Mora's case was not an element of the Strobel-Figueras transaction, and can not be affected by it.

Even supposing that the claims of Spain against the United States for the cession of Florida and the war of secession are just—a supposition which, as far as the Florida claims are concerned, would imply the ignoring and overruling of the opinions of almost every Attorney-General of the United States and of many of your predecessors, and as we understand of the Senate of the United States—what has Mr. Mora to do with them?

What equity can be found in retaining Mr. Mora's money because the United States retains the money due some subjects of Spain? What kind of international comity or respect can be shown by suggesting, through alleged friendship to the United States and respect to Mr. Curry, to compromise Mr. Mora's claim for about a third of its

just amount and then withholding the payment of the money and threatening the United States with an *indefinite postponement*, as Mr. Vega de Armijo did, if the Spanish claims, nebulous, problematic, and unsettled, are not paid simultaneously?

Neither your predecessor, Mr. Bayard, nor Mr. Mora would have accepted the compromise of November 29–December 7, 1886, if such a condition had been suspected.

Marquis de la Vega de Armijo said, in his note of August 7, 1888, to Mr. Strobel—and this is another point upon which we especially request your attention—that the Mora claim should be included, although not discussed, in the general examination of the mutual claims which his department was then making. This is an important admission of the fact that Spain is finally bound to pay Mr. Mora \$1,500,000 and that this claim has ceased to be a private claim and become an international compact, as Mr. Curry stated in his excellent dispatch of June 30, 1888. Marquis de la Vega de Armijo does not pretend to again discuss the claim but only wants to deprive it of the *priority in payment*.

It is suggested respectfully that a *deprivation* of this character which practically amounts to noncompliance is a gross injustice to Mr. Mora, and also an act of disrespect to the United States.

If the agreement was made upon the basis of that priority in payment, the *deprivation* by Spain alone of that priority can not be tolerated by the Government of the United States.

The Congress of the United States has not hesitated in the recent case of the Venezuelan Steam Transportation Company of New York, to give a proof that in this country, no less than in France, England, Germany, and even Spain (who begins negotiations by resorting to reprisals), the rights of the citizens deserve some attention.

Four years have elapsed since the Spanish Government solemnly bound itself to pay Mr. Mora \$1,500,000. This was done after fifteen years of discussion and half a dozen of promises, broken as soon as made. The famous note of your predecessor, Mr. Fish, of November 5, 1875, conveying the threat that the United States Government was ready to intervene in the Cuban affairs, brought Spain to her senses, and caused the decree of restitution of February 7, 1876, to be issued. But the promises were again broken.

In conclusion, we ask your attention to the critical condition of this case as it stands under the present correspondence between the two Governments.

When the Cuban authorities tried Mora, an American citizen, not residing in Cuba, but living and having lived consecutively for about eighteen years in the United States, sentenced him to death and confiscated a property worth, according to their own estimate, some \$4,000,000, Mr. Fish, then Secretary of State, protested promptly and indignantly. The Spanish Government admitted the utter illegality of the proceedings. As a sentence of death by a court-martial could only be canceled by royal authority, the King of Spain issued a full pardon, and orders were sent to Cuba, instructing the authorities there to restore the confiscated estates. Twice were these orders issued, and, either by connivance or open disobedience, they were not executed.

Finally, upon the repeated protest of successive administrations of the United States, the question was taken up in the full council of ministers, and it was unanimously resolved to settle it by acknowledging the injustice, regretting the failure to restore the confiscated estates, and offering the payment of \$1,500,000, the payment to be made by an appropriation in the Cuban budget of 1887. The offer was accepted,



and both Governments congratulated each other on the final settlement of this prolonged and irritating discussion.

In all this time the Spanish Government had never denied the claim. It admitted the citizenship of Mora, it admitted the illegality and violence of the trial and confiscation, it admitted the value of the estates, and acknowledged the receipt of \$2,700,000 from the estates it could not restore, and, finally, offered as a compromise compensation \$1,500,000.

In all the discussion up to the final settlement it never pretended to attach any condition, but, on the contrary, declared its motive to be the desire to remedy a great injustice and to maintain its own good faith.

At this point Mr. Curry, the United States minister who negotiated the settlement, was succeeded by Mr. Belmont, and Mr. Moret, the Spanish secretary of foreign affairs, changed his portfolio in the cabinet and was succeeded by the Marquis de la Vega de Armijo. From the correspondence it appears that Mr. Belmont applied to the Marquis de la Vega de Armijo for the execution of this accepted settlement, and then for the first time the Spanish Government used language which seems to repudiate the settlement.

We make no reference here to the delays in its execution or the excuses for that delay made by Mr. Moret. The point we make is that in all that delay Mr. Moret recognized and maintained that it was a final settlement and an advantageous settlement for Spain, and that it would be faithfully executed.

The plain English of this declaration was that Spain would not pay what she had solemnly promised to as a compromised indemnity for what she admitted to be an act of illegal violence to a citizen of the United States unless the United States would consent to an adjustment of certain other claims of an entirely different character, which have never entered into the discussion or settlement.

The result of this conversation reached the Department after you had succeeded Mr. Bayard, and you immediately gave instructions to Mr. Palmer, appointed to succeed Mr. Belmont, which instructions he was to read to Marquis de la Vega de Armijo, and a copy of which he was directed to leave with the Spanish secretary.

Mr. Palmer, in the exercise of a discretion upon which we have no comments to make, did not read your instruction to the Spanish secretary, nor leave a copy with him. After a delay of some months and in reply to a telegraphic inquiry he informed you that he had not deemed it judicious to obey your instructions. And we have been further informed, but do not vouch for the accuracy of information, that Mr. Palmer says that, having received no reply to his dispatches, he had the right to presume that his action was approved.

However that may be, it is clear that the Marquis de la Vega de Armijo has not been informed that the position taken by him in his conversation with Mr. Belmont will not be accepted by the United States, and that he will insist upon construing the silence of the Department of months into an acquiescence in the new ground he has assumed, we infer from another fact.

In his annual message to Congress the President of the United States expressed his regret that certain claims against Spain had not been settled with the promptness which he had a right to expect.

In the Spanish Cortes, an interpellation was made in reference to this expression, and Marquis de la Vega de Armijo is reported as say-



ing—that he did not understand it, as he was not aware of any pending claim of the United States against Spain.

We most earnestly ask that the Spanish Government be informed at the earliest moment that the Government of the United States adheres to the instructions given to Mr. Palmer, and that these instructions should be immediately brought to the knowledge of the Marquis de la Vega de Armijo.

As that instruction, which you were kind enough to let us see, was very little more than the clear statement of the case in the explicit language of the Spanish Government itself, and an expression of your confidence that Spain would in good faith discharge the obligation which she voluntarily assumed, and settle this case upon the very terms which she had herself proposed, we think that its communication would close this matter and relieve the Spanish secretary of certain misconceptions into which his want of familiarity with the details of preceding negotiations must have unfortunately led him.

We are, sir, very respectfully, your obedient servants,

WM. D. SHIPMAN.

WM. HENRY TRESCOT.

J. I. RODRIGUEZ.

NATHANIEL PAIGE.

*Mr. Foster to Mr. Snowden.*

No. 53.]

DEPARTMENT OF STATE,

*Washington, December 20, 1892.*

SIR: I inclose copy of a joint resolution (S. R. 92) presented to the Senate by Senator Dolph on July 1, 1892, respecting the Mora claim.

Senator Dolph, of the Committee on Foreign Relations, to whom the bill has been assigned for a report, has called upon the Department informally for its views as to the propriety of its passage. In reply, I have said to him that I had already called the attention of Señor Dupuy de Lôme to the pending bill and urged upon him the importance of obtaining from his Government at an early day some authorized statement respecting its intention as to the execution of the agreement made with Mr. Curry. I have also suggested to Señor Dupuy de Lôme the propriety of obtaining from his Government full authority to adjust, by convention or otherwise, the various claims pending between the two governments, and have said to him that should he fail to obtain at an early day some definite instructions and authority upon these subjects, there was great probability that the joint resolution would be passed or some action taken by Congress looking to the enforcement of the Mora claim.

You are instructed to bring this matter by personal interview to the attention of the minister of state and impress upon him the peculiar condition in which the matter is now placed by the delay of the Spanish Government and the pendency of the joint resolution in Congress.

I am, etc.,

JOHN W. FOSTER.

*Mr. Foster to Mr. Snowden.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, January 2, 1893.*

On receipt instruction 53, Mora urge minister of state to empower Dupuy Lôme by cable, if possible, to arrange full claims convention. Congress adjourns in sixty days.

FOSTER.

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*Mr. Snowden to Mr. Foster.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
*Madrid, January 3, 1893.*

Mr. Snowden telegraphs that he earnestly pressed, according to instructions, the Mora claim in an interview just had with the minister for foreign affairs for that purpose. He says that the present minister of Spain at Washington can not act as suggested, owing to the impending departure of his successor for the United States. The minister for foreign affairs expressed the opinion that unless it was accompanied by an agreement on the part of the United States to admit Spanish claims against its Government, the Mora indemnity would never be voted by the Cortes, and said that his Government was willing to reopen negotiations, but did not concede the claims as presented. Mr. Snowden requests instructions as to which claim should have precedence, it being unadvisable in his judgment simultaneously to press two important claims for indemnity.

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*Mr. Foster to Mr. Snowden.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, January 4, 1893.*

To what two claims do you refer close of your telegram yesterday?

FOSTER.

*Mr. Snowden to Mr. Foster.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
*Madrid, January 5, 1893.*

My telegram referred to Mora and Caroline claims.

SNOWDEN.

*Mr. Foster to Mr. Snowden.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, January 5, 1893.*

Caroline claim must not be complicated with other questions. The President expects complete settlement without delay. Advise progress by telegraph. New Spanish minister should bring full instructions as to Mora and other old claims.

FOSTER.

*Mr. Snowden to Mr. Foster.*

[Extract.]

No. 53.]

LEGATION OF THE UNITED STATES,  
*Madrid, January 6, 1893. (Received January 23.)*

SIR: I have the honor to inform you that, acting upon your instruction No. 53, of December 20, inclosing a joint resolution offered in the Senate by Senator Dolph, I sought an interview with the minister of state, the Marquis of Vega Armijo, on the 3d instant.

The substance of that interview was cabled you the same day.

In view of the voluminous correspondence between the two Governments now on file touching the origin and progress of this claim, and as the minister of state was thoroughly familiar with the subject in all its bearings, I did not deem it necessary to go back of the proposition of Señor Moret as presented in his note to the legation under date of November 29, 1886. The more so as there appears to be no contention as to the leading facts or their significance up to the date of that proposition.

In reply to my observations in which I gave the substance of the proposed joint resolution of Congress in regard to the claim, the minister of state made a résumé of the case up to and including the plan of settlement as proposed by Señor Moret, and amongst other things said that whilst the proposition of Señor Moret was to settle the claims for a given sum, it reserved to the Spanish Government the right to determine the most practicable method of payment, and that of this the Government of the United States was to be duly advised.

The marquis further added with much emphasis that in his judgement no minister would again present to Parliament a proposition in settlement of this claim unless it embraced the claims of Spanish subjects against the United States, and certainly that no appropriation would ever be made by the Cortes without the admission of such claims.



Replying to the inference he intended me to draw, to wit, that the rejection of Señor Moret's proposition by the Cortes left the matter as it was before the proposition was made, I observed that as the plan of settlement presented by Señor Moret and made with the concurrence of his colleagues in the ministry, was accepted by the United States as a finality, it followed that neither the resignation of Señor Moret from the cabinet, nor the refusal of the Cortes to appropriate the money agreed upon in settlement of the claims, released his Government from the moral and legal obligation it had assumed.

He replied that whilst in theory this might be true, the fact remained that the Government was unable to carry out any proposition or obligation it might assume involving the expenditure of money without the assent of the Cortes, which alone had the authority to appropriate money. That in the case of Señor Moret's proposition the Cortes had refused to appropriate the amount agreed upon, and that, therefore, that plan of settlement might be considered as dead, or at least suspended.

Whilst still insisting that the moral and legal obligation rested upon Spain to carry out the plan of settlement as presented by Señor Moret and accepted by our Government, without reference to any claims that might be presented by Spanish subjects against the United States, which could be taken up and adjusted subsequently, I ventured, in conformity with your cablegram of the 2d instant, to ask whether the Spanish Government was willing, provided our Government consented, to reopen negotiations, and in this connection whether it would empower Señor Dupuy de Lôme, the present minister at Washington, to act for his Government in arranging a convention through which a final settlement might be reached. He replied, as indicated in my telegram herewith appended, by declining to allow Señor Dupuy de Lôme to act, giving as a reason that the new minister would shortly be in Washington. He further stated that he would have no objection to submit the claims of both countries to a convention.

I shall endeavor to have the new minister carry with him to Washington the authority to arrange a convention, and shall seek an interview with him before he leaves here.

I have, etc.,

A. LOUDON SNOWDEN.

*Mr. Snowden to Mr. Foster.*

No. 65.]

LEGATION OF THE UNITED STATES,  
*Madrid, January 16, 1893. (Received January 30.)*

SIR: I have the honor to inform you that in an interview with the Marquis of Vega de Armijo, I pressed upon him the importance of giving to Señor Muruaga, the new minister to Washington, before his departure, instructions and authority to arrange with you a convention for the adjustment of the Mora and such other claims as Spanish subjects may have against our Government. In reply he said he would endeavor to meet my wishes. I pointed out the advantages likely to follow prompt action, as the present disposition of our Government to arrange such a convention might be changed after the 4th of March next.

I also took occasion to indicate as an important element in a prompt and equitable settlement, your personal familiarity with the claims to be considered.

As intimated in my No. 58, I sought an interview with Señor Muruaga, with the purpose of impressing upon him the personal and general advantages that would result from his taking with him to Washington full powers as above indicated.

I am satisfied he will do what he can to second my efforts in meeting the wishes of the Department in this matter.

I have, etc.,

A. LOUDON SNOWDEN.

*Mr. Snowden to Mr. Foster.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
*Madrid, January 24, 1893.*

Mr. Snowden reports that Señor Muruaga will leave on January 25, and, according to a definite promise, made by the minister of state, will have authority to negotiate a convention for the settlement of claims between the two governments, including the Mora claim.

*Mr. Snowden to Mr. Foster.*

No. 71.]

LEGATION OF THE UNITED STATES,  
*Madrid, January 28, 1893. (Received February 13.)*

SIR: I had the honor to cable you on the 24th instant that the minister of state had promised to invest Señor Muruaga before his departure for Washington with full powers to arrange a convention through which a final settlement may be reached in the Mora and other claims.

After the Spanish Government had declined to grant to Señor Duprey de Lôme such authority as was suggested in your cable of the 2d instant, I exerted myself to have his successor so empowered. After several interviews with the Marquis of Vega de Armijo and Señor Muruaga, the minister of State gave me the definite promise cabled you.

I have, etc.,

A. LOUDON SNOWDEN.

*Mr. Foster to Mr. Snowden.*

No. 95.]

DEPARTMENT OF STATE,  
*Washington, February 2, 1893.*

SIR: Your dispatch numbered 65 of the 16th ultimo has been received, relating an interview with the minister of foreign affairs respecting the adjustment of claims between the two Governments.

In your presentation of the subject you referred, in your interview with the minister, to a "convention for the adjustment of the Mora and

such other claims as Spanish subjects may have against our Government." I desire to direct your attention to the fact that the Mora claim has been regarded by this Government as already a liquidated and adjusted claim, only awaiting an appropriation by the Spanish Cortes for its final payment. It should not, therefore, be placed in the category of unadjusted claims.

If you have misled the minister of state on this point, you will be careful, at a convenient opportunity, to make the necessary correction.

I am, etc.,

JOHN W. FOSTER.

*Mr. Foster to Mr. Snowden.*

No. 100.]

DEPARTMENT OF STATE.

*Washington, February 7, 1893.*

SIR: I have received your dispatch No. 58, of the 6th ultimo, reporting the result of your interview with the minister of state on the subject of the Mora claim.

It is hoped that Señor Muruaga will bring with him the authority to negotiate with reference to the payment of this claim and the settlement of other claims pending between the two governments.

I am, etc.,

JOHN W. FOSTER.

*Mr. Snowden to Mr. Foster.*

No. 90.]

LEGATION OF THE UNITED STATES,

*Madrid, February 16, 1893. (Received March 2.)*

SIR: I have the honor to acknowledge the receipt of your instructions 95—referring to my dispatch No. 65—having relation to a "convention for the adjustment of the Mora and such other claims as Spanish subjects may have against our Government," and note the comments made on the same to the effect "that the Mora claim has been regarded by this (our) Government as already a liquidated and adjusted claim," etc.

The inference to be drawn is that in inducing the Spanish Government to confer upon Señor Muruaga full powers to adjust by convention or otherwise the Mora and other claims, I did not properly interpret the wishes of the Department.

If this is the case, my error has arisen from a misinterpretation of the written and cabled instructions received by me on this subject.

In your instructions 53 of December 20, 1892, inclosing a joint resolution of Congress presented by Senator Dolph, you say, after referring to "the agreement made with Mr. Curry" for the adjustment of the Mora claim that—

I have also suggested to Señor Dupuy de Lôme the propriety of obtaining from his Government full authority to adjust—by convention or otherwise—the various claims pending between the two governments, and have said to him that should he fail to obtain at an early day some definite instructions and authority upon these subjects, there was great probability that the joint resolution would be passed or some action taken by Congress looking to the enforcement of the Mora claim, etc.

As the joint resolution had only reference to the settlement of the Mora claim—the suggestion that the Spanish minister at Washington



be authorized "to adjust by convention or otherwise the various claims pending between the two governments"—on an intimation that unless this was done there was great probability that "some action would be taken by Congress looking to the enforcement of the Mora claim"—it seemed clear, therefore, that the Mora claim was among the various claims to be presented. If this was not the case why should the threatened action of Congress on the Mora claim be made dependent upon Dupuy de Lôme "obtaining from his Government full authority to adjust by convention or otherwise the claims pending between the two countries," why was its consideration associated with the settlement of other claims upon which no agreement had been reached?

In addition to your instruction 53, I received the following cable, dated January 2:

On receipt of instructions 53—Mora—urge minister of state to empower Dupuy de Lôme by cable, if possible, to arrange full claims convention. Congress adjourns in sixty days.

On January 3 I cabled you the substance of an interview with the Marquis de la Vega de Armijo.

On January 5, two days afterwards, I received the following cable:

New Spanish minister should bring full instructions as to Mora and other old claims.

On January 24, nine days before the date of your instruction 95, I cabled the Department that "Muruaga will carry authority to arrange convention for settlement of Mora and other claims between the two governments" thus clearly setting forth the view I had taken of instructions sent me. If my action was not in harmony with the views of the Department, a cable sent me at that time would have enabled me to correct the erroneous impression I had conveyed to the minister of state, before the departure of Señor Muruaga for Washington.

In my interview with the Secretary of State, as fully set forth in my dispatch 58, to which I invite your considerate attention, you will observe that as I insisted that the plan of settlement (of the Mora case) presented by Señor Moret, with the concurrence of his colleagues in the ministry, was accepted by the United States as a finality, it followed that "neither the resignation of Señor Moret from the cabinet, or the refusal of the Cortes to appropriate the money agreed upon in settlement of the claim, released his (the Spanish) Government from the moral and legal obligation it had assumed."

Whilst asserting this as the position of our Government, I felt fully authorized, indeed directed, under instructions to make the suggestion that Dupuy de Lôme, and subsequently that Muruaga, should have full instructions as to "Mora and other old claims."

As I have been informed that the claims outstanding, other than the Mora claim, are largely those of Spanish subjects against the United States, I could not understand the desire manifested for a convention to consider such claims unless there was the purpose to couple with these in a final settlement the important Mora claim which has been pending many years, and which, in my judgment, is as far from a practical final settlement as it was before the proposition of Señor Moret was made and accepted by our Government. I was the more convinced as to the purpose of the Department as set forth in the written and cabled instructions sent me, from the fact that it is within my knowledge that our Government has heretofore refused to arrange a convention for the consideration and adjustment of outstanding claims of Spanish subjects against the United States.

Having thus presented the data upon which my action was based, I beg in conclusion to say that I shall "at a convenient moment" explain to the minister of state the unintentional error I committed in misconstruing instructions.

I have, etc.,

A. LOUDOUN SNOWDEN.

*Mr. Gresham to Mr. Snowden.*

No. 139.]

DEPARTMENT OF STATE,  
Washington, March 8, 1893.

SIR: I have received your No. 90 of the 16th ultimo, replying to Department's No. 95 of the 2d ultimo, concerning the Mora claim against Spain and the arrangement of a claims convention.

Your promised explanation to the minister of state will doubtless remove the misapprehension into which you have fallen of regarding the Mora claim as one to be reopened instead of being comprehended in the proposed agreement as an offset already liquidated and only awaiting payment of the stipulated sum in the contingency proposed by Spain herself.

I am, etc.,

W. Q. GRESHAM.

*Mr. Gresham to Mr. Taylor.*

No. 16.]

DEPARTMENT OF STATE,  
Washington, July 14, 1893.

SIR: Your attention is directed to the claim of Antonio Maximo Mora against the Government of Spain. A full history of the case will be found in the correspondence between this Department and your predecessors, on file in your legation. I now desire especially to bring to your notice a few of the more salient features of the claim, showing its present status and explaining the instructions which will herein be given you in respect to it.

Mr. Mora, a native of Cuba, and a resident of this country since 1853, became a naturalized citizen in 1869. He had large estates in Cuba. In 1870, though absent, he was condemned to death, and his property confiscated by the sentence of a court-martial convened at Havana, for alleged complicity in the Cuban insurrection.

Against this action our Government protested, and in behalf of Mr. Mora demanded restoration of his property. Restitution was promised, but the promise was never performed. Years after (in the course of debate in the Cortes during the year 1886) Señor Moret, the Spanish minister of foreign affairs, admitted that his Government had received as income or rents from the confiscated estates of Mora, between the date of confiscation and March, 1876, more than \$2,300,000, and still held the estates subject only to debts against Mora, amounting to less than \$800,000.

For years unavailing efforts was put forth by this Government to obtain redress for Mr. Mora. Finally, on November 29, 1886, Mr. Moret,



in a note to our minister, Mr. Curry, offered in behalf of his Government to pay \$1,500,000, in full settlement of Mora's claim. This note stipulated that the amount offered should be paid "by a charge upon the Cuban budget, and the minister of Ultramar," it was said "will propose to the Cortes the means of payment in the next budget of 1887-'88."

Although not an adequate compensation for Mr. Mora's loss, this offer was accepted by our Government in the faith that the amount agreed upon would be speedily paid.

Although having no proper connection with the Mora case, I will here mention a collateral matter which appears to have occasioned some confusion of thought in the mind of the Spanish authorities. It is this: Certain other claims besides that of Mora had been preferred by this Government against Spain, and were pending at Madrid, and Spain had preferred certain claims against this Government, which were pending at Washington.

In the spring of 1887 negotiations were had between Mr. Strobel, our secretary of legation at Madrid, and Mr. Figuera, representing the Spanish Government, looking to the adjustment of the American claims against Spain, not including the already-adjusted Mora claim. These gentlemen reported favorably upon some of these claims and adversely upon others. In their joint report, dated May 3, 1887, it appears that—

Before terminating the conference the secretary of the legation of the United States stated that he was authorized by his chief (Mr. Curry) to declare that the Government of the Union, in just reciprocity for the conduct observed by the Government of Her Majesty, the Queen Regent, was, in its turn, ready to proceed to the examination and settlement of the claims which Spain has pending with the United States, in consequence of the cession of Florida and the war of secession.

This Government withheld its ratification from the Strobel-Figuera agreement because it was feared that the words "examination and settlement" appearing in this report might imply an admission on the part of the United States that something was due to Spain on account of the claims asserted by her. The position of this Government being that it owed nothing on such claims, it was thought that the question whether any liability whatever existed should be first ascertained.

It is understood that in June, 1887, the Colonial budget was presented to the Cortes containing a provision under which the Mora claim might have been paid; but the Cortes was prorogued by royal decree before any action could be taken on it.

It is further understood that a few days before the prorogation of the Cortes the committee to which the Cuban budget was referred reported as its opinion that—

• Payment of the claims formulated by the Government of the Union as agreed upon by that of Spain must be simultaneously made with that of all Spanish claims.

There was no warrant for this report of the committee. The promise by Spain to pay the Mora debt was never in any way coupled with the condition that this Government should pay, or even take into consideration, the claims asserted by Spain. There is nothing in the Strobel-Figuera agreement to warrant this idea of offset or conditional payment, as applicable to Mora's claim; for it is to be observed, first, that that agreement in no way related to or was affected by the Mora claim or modified the unconditional agreement to pay the same, which had been previously concluded; secondly, the Strobel-Figuera agreement did not even make the payment of claims embraced by it conditional on the payment of the Spanish claims against this Government,



but only promised that the examination and settlement of the latter should be proceeded with; and, thirdly, the Strobel-Figuera agreement, for reasons already given, was never ratified by this Government, and therefore never became binding.

Commenting on the report of the committee of the Cortes above referred to, Mr. Curry, in a note to Mr. Moret of December 15, 1887, very properly said:

Your excellency, I submit, can not fail to perceive that this language has no relevancy to the Mora agreement, and is not in execution of the agreement of May 18, 1887.

Meaning the Strobel-Figuera agreement.

This Government of course was not and is not responsible for any erroneous views which may prevail in the Spanish Cortes, in regard to the payment of claims which that Government has unconditionally agreed to pay. Yet this Government was not unwilling to submit to arbitration claims (other than the Mora claim) pending between the two Governments. Accordingly on December 15, 1887, Mr. Curry submitted to the Spanish Government a draft of a convention of arbitration. But the Mora case was by the terms of the convention thus proposed expressly excepted from its operation, and it was distinctly provided therein that Mora's claim should be paid, "according to the terms heretofore agreed on." Spain did not assent to the convention thus offered.

The Cortes again assembled early in 1888, and the budget was introduced but contained no provision for the payment of the Mora claim. Mr. Curry thereupon addressed a note to Mr. Moret, under date of April 24, 1888, inquiring why provision for payment of that claim had been omitted from the budget. On May 12, 1888, Mr. Moret replied, giving as the reason for the omission that the Cortes "was not disposed to sanction what had been done by the Government unless there should be a general settlement of claims on both sides." Mr. Moret, however, well understood that no such general settlement was contemplated as a condition precedent to the payment of Mora's claim, for, with his accustomed sense of honor, he said in behalf of the Spanish Government in his reply above referred to, "I desire in every way to make it evident that the Government neither proposes nor assumes to alter in anything what has been agreed upon with the Government of the United States," and he declared that his Government only awaited the opportunity to propose a resolution to the Cortes, with probability of success. He further explained it was not necessary that the provision for paying Mora should be inserted in the Cuban budget, but that a bill for the purpose might be introduced at any time.

Mr. Moret's reply and explanation having been transmitted by Mr. Curry to the Department, instructions were sent him on June 23, 1888, which referred to the convention proposed by this Government (presented to the Spanish Government December 15, 1887) as affording a solution of the parliamentary difficulty.

About this time the Marquis de Armijo succeeded Mr. Moret as the Spanish minister of foreign affairs. On June 30, 1888, Mr. Curry, in a note to the marquis, made a résumé of the Mora case down to that time, and acquainted the marquis how his predecessor, Mr. Moret, had been reminded that reciprocity in the payment of claims between the two countries could not apply to the case of Mora. In this note Mr. Curry characterizes Mora's claim as one—

raised from the debatable and negotiable ground which it had previously occupied to the height of an international compact binding upon both governments.

The marquis replied to this note, intimating that the Cortes would make no appropriation for payment of the Mora claim, except on the understanding that such payment should coincide with payment of claims of Spain against the United States.

The above-mentioned note of Mr. Curry and the reply of the Marquis de Armijo thereto were transmitted to the Department by Mr. Strobel.

On September 17, 1888, the Department, in an instruction to Mr. Strobel, stated that it had been willing to couple the payment of Mora's claim with an arrangement for the adjustment of other claims pending between the two governments, provided a fair understanding could be arrived at within a reasonable period. But it was distinctly declared that payment of this acknowledged debt of the Spanish Government could not be "indefinitely postponed" or delayed until the disposition or method of disposition should be reached of all the controverted claims of Spain. The convention proposed by this Government to Spain on the 15th December, 1887, was referred to, and it was intimated that the policy of the Spanish Government appeared to be "practically to defeat the settlement arrived at in the Mora case by an indefinite postponement." Finally the opinion was expressed—

that the sum agreed to be paid in that case may, under the circumstances, fairly be treated as a debt due and withheld by Spain from the United States upon which interest should justly be computed from the time the agreement was concluded.

On October 15, 1888, the Spanish Government, referring to the convention proposed by us on December 15, 1887, expressed objections thereto and suggested a method of considering the claims of Spain against our Government similar to that pursued in the Strobel-Figuera negotiations. This suggestion contemplated a postponement of payment of all claims, including, in effect, though not in express terms, that of Mora, until a final settlement could be reached; and as this Department had always distinctly refused to agree to any such postponement of payment of Mora's claim, the suggestion was of course not accepted.

A further objection to this suggestion was based upon the fact that it proposed an "examination and settlement" of claims of Spain against this Government in the very terms which furnish the ground of objection to the Strobel-Figuera agreement, an explanation of which objection was transmitted in an instruction to Mr. Belmont under date of December 18, 1888.

In another instruction of the last-named date, to Mr. Belmont, directing him to press the Mora claim, he was informed that the only claim which Spain had put forward as in any sense an offset to the claim of Mora, was that of Maza and Larrache for cotton alleged to have been taken from them by the United States authorities in 1865. This Government had emphatically denied any liability to pay this claim. Nevertheless Mr. Belmont was authorized to offer to submit the Maza and Larrache claim to arbitration, with the understanding that on the signature of the arbitration agreement, the Mora claim should be paid. Mr. Belmont accordingly suggested to the Spanish Government arbitration of the Maza and Larrache claim, but that Government objected and insisted that the only method of presenting the Mora claim to the Cortes, with the hope of securing the necessary appropriation, was to present it with a plan of general settlement. This was in February, 1889.

Of course, this Government, as above stated, could not recognize parliamentary difficulties in the way of securing an appropriation for the



Mora claim, as in any way relieving Spain from her distinct and unconditional obligation to pay that claim.

Accordingly, on May 20, 1889, the Department sent to Mr. Palmer, who had then been appointed our minister to Spain, full instructions as to this claim. In these instructions, after expressing the willingness of the Government to "consider any arrangement for the examination and settlement of any and all claims which the Spanish Government is prepared to submit to its attention," it was said:

But the President is unwilling to allow the execution of the absolute settlement of the Mora case to be made dependent upon the further settlement of other claims, however strong, which are still the subject of diplomatic discussion between the two governments, and which have never approached final adjudication.

Owing to some misunderstanding it appears that this instruction was never brought to the attention of the Spanish foreign office.

The foregoing review shows that since the agreement of 1886 to pay the Mora claim, it has not been the subject of offset or dependent upon the adjustment of any other claims, and the most that can be said by the Spanish Government is that the United States, in a spirit of liberality, expressed its willingness, in view of the above-mentioned parliamentary difficulties, that *payment* might be deferred until an agreement could be arrived at for the arbitration of other claims pending between the two governments, provided always, that such agreement should be reached in a reasonable time, and that payment of the Mora claim should not be postponed awaiting action under it.

Late in the last session of Congress the following resolution was introduced on the subject of that claim and it is believed would have been adopted but for shortness of time:

That the President be, and he is hereby, authorized and requested to take such measures as in his judgement may be necessary to consummate the aforesaid agreement by the collection of the amount agreed upon with interest from the time the said amount should have been paid under the aforesaid agreement.

Unless the Spanish Government speedily changes its attitude towards this claim, a similar resolution, perhaps one more peremptory, will be introduced, with a strong probability of its passage at the next session of Congress, soon to assemble.

The Spanish Government agreed to indemnify the United States for the flagrant wrong done to Mr. Mora, by the unconditional payment of a sum of money. The justice of the demand could not fairly be questioned, and now nothing short of full and prompt payment will be acceptable to this Government. The United States will not consent that payment shall await the final adjustment of claims asserted by Spain against us, or that payment shall depend upon the willingness of the Cortes to make the necessary appropriation. This Government is still willing to enter into an agreement for the settlement of all pending claims, but not with any understanding that payment of the Mora claim shall in any wise depend upon the consummation of such agreement or settlement.

You will avail yourself of an early opportunity to present these conclusions to the Spanish Government, and hand a copy of this note to the minister for foreign affairs.

I am, etc.,

W. Q. GRESHAM.



*Mr. Taylor to Mr. Gresham.*

[Extract.]

No. 33.]

LEGATION OF THE UNITED STATES,  
*Madrid, August 19, 1893. (Received September 11.)*

SIR: I beg leave to remind you that the very able note (No. 16) recently addressed by the Department to the Government of Spain, touching the settlement of the Mora claim, reduces that matter to the single issue of payment.

When I consider all the circumstances of embarrassment which will attend the settlement by the Spanish Government of either demand, coupled with the great delay which has already taken place as to both, I am convinced that nothing practical will ever be accomplished as to either without a firm, may be a stern, insistence upon the issues as made. At the same time I clearly perceive how embarrassments may arise out of a too aggressive insistence. I would, therefore, be happy to receive an intimation as to the attitude which you desire I should assume as to these matters, whenever it may become necessary for me to take personal action at all. If replies do not come within the usual time shall I press for them? Is it your desire that I should, at the proper time, have personal interview as to these matters with the minister of state? If so, shall I press their settlement upon him in a way that will convince him that the Government of the United States is now in earnest? Any intimation which you may give will become my rule of action.

I have, etc.,

HANNIS TAYLOR.

*Mr. Adee to Mr. Taylor.*

No. 36.]

DEPARTMENT OF STATE,  
*Washington, September 22, 1893.*

SIR: Replying to that portion of your dispatch, numbered 33, of August 19, 1893, in which you ask instructions of the Department as to the course to be pursued by you in reference to the Mora case, I have to say that, unless the Spanish Government shortly replies to the Department's No. 16 in that case, a copy of which it is assumed you have delivered to the minister for foreign affairs, you will address a note expressing the urgent desire of this Government for a speedy reply. Should the reply not be thereafter speedily made you will seek an opportunity to urge the matter again in an interview with the minister. In communicating with the minister either by note or by interview, you will take occasion to impress upon him, always, of course, with the utmost courtesy, the earnestness of this Government in this matter.

It is desirable that you should, as soon as possible, communicate to this Department the result of your action.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

*Mr. Taylor to Mr. Gresham.*

[Extract.]

No. 41.]

LEGATION OF THE UNITED STATES.

*Madrid, October 6, 1893.*

SIR: I have the honor to acknowledge the receipt of your No. 36, of the 22d ultimo, containing instructions as to the course to be pursued by me in the Mora case.

On the 5th day of August last your No. 16 was delivered to the minister of state. On the 21st of August he replied acknowledging the receipt of the same in a note in which he expressed a desire to speak with me on the subject. On the 12th day of September, immediately after my return from San Sebastian, I responded, stating that I would be happy to call upon him, for the purpose of the interview, upon any day that he might be pleased to designate. Since then I have had no further communication from him upon the subject. The delay may have been occasioned by the fact that the minister of state has of late been burdened with two portfolios, and by the continued illness of the prime minister, who is still in bed. If however, I have no reply to my last note, during the present week, I shall renew my request for the promised interview.

I am, etc.,

HANNIS TAYLOR.

*Mr. Adee to Mr. Taylor.*

[Extract.]

No. 51.]

DEPARTMENT OF STATE,

*Washington, November 4, 1893.*

SIR: I have received your No. 41 of the 6th ultimo, in regard to the delay in the consideration of the Mora claim.

The Department can only account for the delay of the Spanish Government in this matter by the fact which you mention of the unusual amount of business with which, by reason of the continued illness of the prime minister, the minister of state has of late been burdened.

Notwithstanding this this Department is surprised that the interview suggested by the minister of state in August last has not yet been granted you, especially as by your note of September 12 you announced your readiness to call on him for the purpose, at such time as he might designate, and, as is supposed from the tenor of your dispatch, you have recently renewed your request for an interview.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.**Mr. Taylor to Mr. Gresham.*

[Extract.]

No. 62.]

LEGATION OF THE UNITED STATES,

*Madrid, November 6, 1893. (Received November 16.)*

SIR: I deem it proper to report to you that, after the presentation of Lieut. Peshine, an account of which I have already given you, the minister of state took occasion to have a conversation with me, in the course

of which he said that his deep absorption in the affairs incident to the war at Melilla had prevented him from indicating to me a desire to have a long and friendly interview touching all matters now pending between Spain and the United States. He then expressed the hope that, within two or three weeks, he would be able to notify me of his readiness for such an interview, coupled with the suggestion that each of us should prepare beforehand a list of all matters requiring his attention. I will not fail to press at the same time for some response as to the Mora claim if by that time I shall have received your instructions as to my future course in that matter.

I am, etc.,

HANNIS TAYLOR.

*Mr. Taylor to Mr. Gresham.*

[Extract.]

No. 72.]

LEGATION OF THE UNITED STATES,  
*Madrid, November 24, 1893.* (Received December 22.)

SIR: In reply to your No. 51, of the 4th instant, I have the honor to assure you that I am doing all in my power to secure the interview as to the Mora claim suggested by the minister of state in his note to me of the 21st of August. Before this you have received my No. 62, of the 6th instant, in which I informed you of his proposal to have a long and friendly interview as to all matters now pending between Spain and the United States, at a day not later than two weeks after the 4th instant. As I failed to receive the expected communication within that time, I addressed a note to the minister of state on the 21st instant, a copy of which I inclose herein. To-day I received from him a reply, a copy of which I also inclose herein. From these notes you can best perceive the real situation.

I shall continue to press him at regular intervals for the promised interview. If upon receipt of this letter you deem some other course more expedient, please advise me.

I am, etc.,

HANNIS TAYLOR.

[Inclosure 1 in No. 72.]

*Mr. Taylor to Señor Moret.*

LEGATION OF THE UNITED STATES,  
*Madrid, November 21, 1893.*

EXCELLENCY: On the 4th instant, after the presentation of Lieut. Peshine, you were kind enough to suggest that at an early day we should confer together, with the view of an amicable consideration of all matters now pending between Spain and the United States. You also suggested that if I did not hear from you at the end of two weeks that I should call upon you to set a day for the interview. Since then I have received an urgent note from my Government, in which I am called upon to explain why the interview in regard to the Mora claim, which you suggested in your note to me of the 21st of August, has never taken place. You will remember that in my note of September 12, written immediately after my return to Madrid, I



expressed to you my readiness to call on you for that purpose at any time that you might please to designate. I will, therefore, now ask that you set a day during this week, if possible, when I may call upon you for the purpose expressed by you in our interview of the 4th instant. I will prepare beforehand, as you then suggested, a list of all matters now pending between the two countries, in the hope that we may arrive at a definite conclusion as to them all, especially the Mora claim, concerning which my Government addressed you so earnestly in its formal note of the 14th of July, which remains unanswered.

I avail myself, etc.,

HANNIS TAYLOR.

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[Inclosure 2 in No. 72.—Translation.]

*Señor Moret to Mr. Taylor.*

NOVEMBER 24, 1893.

MY DISTINGUISHED SIR AND FRIEND: Pardon me if I am not as yet able to fix a day for our interview upon the several pending affairs.

I will do so as soon as I can have the time; and I hope you will excuse me if, on account of the urgency and gravity of the affairs which at present claim the whole attention of the Government, I delay the discussion of those to be settled with your legation, which certainly are not of small importance, but which are, however, able to suffer that delay, for which I beg to apologize.

I am, etc.,

S. MORET.

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*Mr. Gresham to Mr. Taylor.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, December 21, 1893.

Mr. Gresham acknowledges the receipt of Mr. Taylor's dispatch No. 72, and instructs him to express to the minister for foreign affairs, in a courteous but distinct manner, the opinion of the Government of the United States, that it is entitled, without further delay, to an answer in regard to the Mora claim, and to be strictly governed in so doing by the Department's instruction No. 16, in which it was stated that the claim stood on an unconditional promise of payment.

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*Mr. Taylor to Mr. Gresham.*

No. 90.]

LEGATION OF THE UNITED STATES,  
Madrid, December 23, 1893. (Received January 8, 1894.)

SIR: I have to-day received your cablegram touching the Mora claim.

I perfectly understand that this claim rests upon an unconditional promise to pay; and that, under your No. 16, that fact is to define my line of action in the matter. Thus impressed, I have done my utmost, both by notes and personal interviews, to obtain a reply to your formal presentation of the case, at all times remembering your admonition to press it with perfect courtesy. From time to time I have reported to you the excuses which the minister of state has given for his delay in the matter, and finally I transmitted to you (in my No. 72) a translation of his last note to me of the 24th of November, in which he pleads for still another postponement. Immediately after the receipt of your

cablegram, informing me of the receipt of my No. 72, I addressed to the minister of state a note (a copy of which I inclose), in which I have endeavored to embody as precisely as possible your last direction in this matter.

I am, etc.,

HANNIS TAYLOR.

[Inclosure in No. 90.]

*Mr. Taylor to Señor Moret.*

LEGATION OF THE UNITED STATES,  
*Madrid, December 23, 1893.*

EXCELLENCY: It again becomes my duty to remind you that the formal note prepared by my Government as to the Mora claim, dated the 14th of July and delivered to you on the 5th day of August last, still remains unanswered. On the 12th of September I informed you that I would be most happy to call upon you at any time that you might designate for the purpose of the interview upon that subject which you had suggested in your note of the 21st of August. On the 4th of November you explained to me that your absorption in affairs incident to the war at Melilla had prevented you from fixing a day for the interview, but that you would endeavor to do so within two weeks from that time. Having heard nothing from you within the two weeks, I again, on the 21st of November, addressed you saying that I had just received an urgent note from my Government calling upon me to explain why the interview suggested by you in your note of August 21 had never taken place. On the 24th of November you replied that your absorption in grave affairs was still so great as to compel you to again ask a postponement of the interview. A copy of that note I transmitted to my Government. I have to-day been notified of its receipt in a cablegram in which my Government directs me to respectfully inform you that it thinks it is entitled to a response to its note of July 14 without further delay.

I seize, etc.,

HANNIS TAYLOR.

*Mr. Taylor to Mr. Gresham.*

No. 91.]

LEGATION OF THE UNITED STATES,  
*Madrid, December 25, 1893. (Received January 8, 1894.)*

SIR: Yesterday I had the honor to forward you a copy of the note which I addressed to the minister of state immediately after receiving your cablegram touching the Mora claim. This morning I have received a reply from Sr. Moret, a copy of which I inclose herein with translation. I will report to you the result of the interview at the earliest moment.

I am, etc.,

HANNIS TAYLOR.

[Inclosure in No. 91.—Translation.—Personal.]

*Señor Moret to Mr. Taylor.*

MY DISTINGUISHED FRIEND: I have received your note, and I confess that only your kindness may excuse my delay in fulfilling the word which more than a month ago I gave you. Pardon me, however, in view of my many occupations, all of an urgent character, which absorb all the time necessary to discuss matters of such complication and delicacy as will occupy us, in reference to the Mora claim. Wishing, however, to please you, and in spite of it now being Christmas week, I purpose to call you on Wednesday, as on Thursday there will be a council of ministers.

With this motive, I am, etc.

S. MORET.

*Mr. Taylor to Mr. Gresham.*

[Telegram.]

MADRID, *December 27, 1893.*

Interview fixed for Friday.

TAYLOR.

*Mr. Taylor to Mr. Gresham.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
*Madrid, December 30, 1893.*

Very encouraging interview yesterday—details mailed.

TAYLOR.

*Mr. Taylor to Mr. Gresham.*

No. 94.]

LEGATION OF THE UNITED STATES,  
*Madrid, December 30, 1893. (Received January 11, 1894.)*

SIR: I have the honor to inform you that in response to my note of the 25th instant (a copy of which I inclosed in my No. 91) the minister of state fixed yesterday as the time for the long-promised interview concerning the Mora claim. I met him at the time appointed in the ministry of state and after he had indulged at some length in a general conversation touching matters of interest to both countries, I reminded him that I had come especially to receive his response to your unanswered note (No. 16) of July 14. He then began by suggesting further delay by reason of his absorption in matters incident to the conclusion of the war at Melilla, as well as to the European treaties soon to be submitted by him to the Cortes. After I had firmly, yet politely, resisted the plea for further delay, Sr. Moret began the discussion by going over the whole matter in a general way, insisting as he advanced that the responsibility had really been shifted from his shoulders to those of the minister of ultramar, whose duty it was to see to it that the \$1,500,000 admitted to be due by the council should be provided for in the Cuban budget, upon which it must become a charge. He then proceeded to review what had been done in the Cortes, saying that the settlement which he had proposed in his letter of November 29, 1886, was of course contingent upon parliamentary action, which he had not been able to control. He then passed to the subject of Spain's counterclaims against the United States, suggesting that the Cortes could hardly be induced to sanction any measure which did not embrace some concurrent provision for their adjustment and settlement. When he had concluded, I began by reminding him that he was the only organ of communication between the two governments, and that I could look to him alone.

I then went on to say that every objection which he had urged as an obstacle to the prompt payment of the Mora claim had been delib-



erately considered and answered in your note of the 14th of July, which I held in my hand as my only rule of action. From that note, I told him, that it was manifest that after much negotiation and long deliberation, my Government had reached four definite conclusions in reference to the matter at issue which I believed to be irrevocable. These conclusions I restated as follows:

(1) That when the proposition of settlement contained in his note of November 29, 1886, was accepted by my Government, an international convention was completed which precludes the discussion of all questions except that of payment.

(2) That the unconditional promise to pay carried with it the obligation to pay in a reasonable time, which had long ago expired, seven years having now elapsed since such unconditional promise had been made.

(3) That my Government will not consent "that payment shall depend upon the willingness of the Cortes to make the appropriation."

(4) That it will not consent "that payment shall await the final adjustment of claims asserted by Spain against us."

I told him that I was careful to thus repeat to him these four conclusions because I believed that his refusal to accept any one of them would be regarded by you as a bar to an amicable settlement of the matter. I insisted that the time had come when a practical result must be reached; that if I should be compelled to report to you that our interview had borne no such fruit, that you would be compelled to regard such a report as a refusal from him to make any answer at all. I then said that nothing would then remain to my Government but the introduction in Congress of a hostile resolution directing the President to take such action as would place the two nations in a very painful attitude toward each other. He at once replied that he perfectly understood that if my Government could obtain redress in no other way that nothing would remain but the last resort, a condition of things which he said should by all means be avoided. He then appealed to me in an earnest manner to suggest some way through which a practical result could be reached in the midst of the difficulties by which he was surrounded, special reference being made to the unwillingness of the minister of ultramar to cooperate with him in the matter.

At that point I reminded him of the suggestion made in his letter of May 12, 1888, (to Dr. Curry) to the effect that it is not necessary that the provision for paying the Mora claim should be embraced in the Cuban budget; that a separate bill for its payment may be introduced in the Cortes at any time. After much discussion he admitted that such a separate bill could be introduced, he suggesting at the same time that another bill might be introduced concurrently, providing for the consideration and settlement of all other claims and counterclaims now pending between the two countries. I finally won from him the promise that he would introduce in the approaching session of the Cortes two bills, (1) the one to embody an unconditional appropriation to pay the Mora claim out of the Cuban revenues, he insisting that it could be paid in no other manner; (2) the other to embody a separate and independent plan or scheme for the examination and settlement of all claims and counterclaims now pending between the two countries which might be ascertained to be valid. He said that if he should succeed, as he believed he would, in bringing the war at Mellila to a satisfactory conclusion, he would have the power to pass the proposed measures through the Chambers; that if he failed, the responsibility of a

refusal to pay would then rest where it belonged, upon the nation. I then asked him if I was authorized to report his promise to introduce the above described measures in the Cortes as his answer to your note of the 14th of July. He replied in the affirmative, suggesting at the same time that he would be glad for you to promptly submit to him the draft of a plan or scheme for the examination and settlement of all other claims and counterclaims now pending between the two countries, with adequate provisions for the payment of such as might be ascertained to be valid. He desires to receive from you the draft of such a plan or scheme before his second bill is drawn, so that it may be incorporated into it, if it shall prove acceptable to him.

While it seems to me that what Señor Moret has now agreed to do is all that he has the constitutional power to do, I simply accepted what he said as a message to be transmitted to you for your consideration and action. I felt sure that the concession that the payment of the Mora claim should be regarded as an independent matter was an important one.

To prevent possible difficulties in the future as to the result of the interview, I have deemed it desirable to address to Señor Moret a note embodying my understanding of such result, a copy of which I have the honor to inclose herein. If any question shall be raised as to the correctness of my view of the matter, I shall promptly inform you.

I am, etc.,

HANNIS TAYLOR.

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[Inclosure in No. 94.]

*Mr. Taylor to Señor Moret.*

LEGATION OF THE UNITED STATES,  
*Madrid, December 29, 1893.*

EXCELLENCY: I have the honor to inform you that I have reported to my Government the result of our interview of to-day touching (1) the payment of the Mora claim, (2) the examination and settlement of all other claims and counterclaims now pending between the two countries which shall hereafter be ascertained to be valid. To prevent any possible misunderstanding in the future, I have deemed it best for us both that I should thus communicate to you the substance of my report, so that any difference of view may be corrected while the matter is fresh in the mind of each of us.

I have reported that, after a long and earnest interview, in which you manifested a strong desire to discharge your full duty in the matter, you have promised to introduce in the approaching session of the Cortes two separate and distinct measures:

(1) A special bill providing for the unconditional payment of the Mora claim out of the Cuban revenues.

(2) Another and distinct measure providing a plan or scheme for the examination and settlement of all other claims and counterclaims now pending between the two countries, with an adequate provision for the payment of such as shall be ascertained to be valid.

I have also reported to the Secretary of State that you desire to receive from him at an early day the draft of such a plan or scheme as he would approve for the examination and settlement of all claims and counterclaims now pending between the two countries (other than the Mora claim), the same to be embodied in the measure last named, provided such draft shall prove acceptable to you. When the draft of the measure last named has been agreed upon, it can be submitted by you as a treaty to the Cortes, and by the President to the Senate of the United States.

The foregoing I have transmitted to my Government as your answer to its note of the 14th of July, 1893.

I avail, etc.,

HANNIS TAYLOR.

*Mr. Gresham to Mr. Taylor.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, January 1, 1894.

Mr. Gresham instructs Mr. Taylor to again inform the minister for foreign affairs that the United States will agree at once to conclude a convention for the settlement of unadjusted claims, although the Mora claim, the correspondence relating to which has been called for by Congress, has been adjusted and its payment too long deferred.

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*Mr. Taylor to Mr. Gresham.*

No. 97.]

LEGATION OF THE UNITED STATES,  
Madrid, January 4, 1894. (Received January 17.)

SIR: In my No. 94, of the 30th ultimo, I had the honor to inclose a copy of the memorandum submitted by me to the minister of state, as my understanding of the conclusions reached by us in our interview of Friday last, touching the Mora claim. Yesterday I received from the minister of state a reply to my memorandum, a copy of which, with translation, I send herewith. I also inclose a copy of my reply to the note of the minister of state.

You will observe that in my reply I have embodied the contents of your cablegram of the 1st instant.

I am, etc.,

HANNIS TAYLOR.

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[Inclosure in No. 97—Translation.]

*Señor Moret to Mr. Taylor.*

MINISTRY OF STATE,  
Palace, January 1, 1894.

MY DEAR SIR: The note which, under date of the 29th, your excellency has been pleased to address to me for the purpose of fixing the points discussed in our conversation of Friday did not arrive at this ministry until yesterday, 31st.

Fully participating in your desire that that communication may serve to well define the points of view and to rectify any difference of understanding in regard to the agreement reached, while the remembrance of that conversation is fresh, I must take the liberty of indicating to you that the idea of seeking a solution of the conflict relative to the Mora negotiations, by submitting two different projects of law to the Cortes, by me in effect accepted, was proposed by your excellency, who saw fit to formulate it when I declined the idea of arbitration first suggested.

It also behooves me to remind you that while, as minister of state, I represent the Government of Her Majesty in its relations with foreign representatives, and while as such I contract in its name the necessary engagements, the presentation of the projects of law to which you refer pertain to the minister of Ultramar, and they have also to be approved by the council of ministers.

I desire also to state that the word *unconditional*, used by your excellency in reference to the project of law looking to the payment of the Mora claim, should be applied to the draft of the project, because if it were to signify an absolute separation between that claim and those which Spain holds against the Government of the United States, it would be unacceptable to me, because it would be in opposition to



the conclusion reached by Congress. But as I have no doubts in regard to the intention, and as we both considered that while these two projects of law, although to be introduced separately, are to be developed in a parallel manner, as your excellency happily expressed it, I only make this explanation.

With these exceptions, I am fully in accord with the exposition which your excellency has made to me as to the spirit of our conversation, and I am ready to examine with due care the draft which your Government may send you for the adjustment of the Spanish claims, which proposal I will submit definitively to the council of ministers.

I have only to add that, although our interview and conversation implied an answer to the memorandum and note of the 14th of July which your excellency had the kindness to send to me, as a courtesy to your Government, and also as the means of rectifying certain views in it contained, I consider it indispensable for the better understanding of this matter to send to your excellency, as I will in a few days, another memorandum which will serve as a reply to the note which your excellency was so good as to send me on the date above referred to.

I avail, etc.,

S. MORET.

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[Inclosure 2 in No. 97.]

*Mr. Taylor to Señor Moret.*

LEGATION OF THE UNITED STATES,  
Madrid, January 4, 1894.

**EXCELLENCY:** Permit me to thank you for your kind note of the 1st instant, from which I am happy to learn that we agree so nearly as to the conclusions reached in our interview of Friday last as to the Mora claim.

You will remember that the suggestion that the payment of that claim should be made the subject of a separate project of law was not an original suggestion of mine, but simply a revival of the suggestion to that effect made by you in your note to my predecessor, Dr. Curry, dated May 12, 1888, to which I specially referred. After we had agreed as to the wisdom of that suggestion, we both concluded that the settlement of the unadjusted claims and counterclaims pending between the two countries should be made the subject of a separate convention.

I do not perceive in your note any substantial difference between us as to the relations which the two projects of law are to bear to each other. I did not intend to use the word "unconditional" when referring to the separate project of law for the payment of the Mora claim in an absolute sense; I understood, as you do, that while the two projects are to be drafted separately they are to be developed in a parallel manner. That is to say, my Government, in its note of July 14, 1893, expressed its willingness, which still continues, to make at once a convention for the settlement of all unadjusted claims, with the express understanding that the payment of the Mora claim shall not await the proceedings under such convention. As the Mora claim stands upon a deliberate and unconditional promise to pay, now seven years old, my Government can never consent, as I explained to you on Friday, that the fulfillment of that unconditional promise shall be further delayed by reason of other unadjusted claims with which the Mora claim has no connection. I therefore understood that while the making of the separate provision for the payment of the Mora claim and the signing of the convention for the settlement of all unadjusted claims were to be concurrent acts, the payment of the Mora claim was in no event to await the proceedings under the convention. Such were the relations which I understood these separate and parallel measures were to bear to each other.

I hope exceedingly that in the memorandum which you promise to send me in a few days, as a more formal answer to the note of my Government, dated July 14, 1893, you will be able to agree with me upon the vital point involved in the relations which the two projects of law are to bear to each other, because I have just received from the Secretary of State a cablegram informing me that the Congress of the United States has called for the papers in this matter.

Hoping that I will be able to transmit to my Government from you such a memorandum as will preclude the necessity for any further parliamentary action, except such as may be necessary for the approval of the draft of the convention which I hope soon to submit to you,

I am, etc.,

HANNIS TAYLOR.

*Mr. Gresham to Mr. Taylor.*

No. 95.]

DEPARTMENT OF STATE,  
*Washington, February 14, 1894.*

SIR: Your dispatches, No. 94 of December 30, 1893, and 97 of January 4, 1894, together with your other dispatches and telegrams in relation to the Mora claim, have been received and have had careful consideration.

In your No. 94 you state that, in an interview with Señor Moret on the 29th ultimo, you presented the conclusions of this Government in regard to the matter as follows:

(1) That when the proposition of settlement contained in his note of November 29, 1886, was accepted by my Government, an international convention was completed which precludes the discussion of all questions except that of payment.

(2) That the unconditional promise to pay carried with it the obligation to pay in a reasonable time, which had long ago expired, seven years having now elapsed since such unconditional promise had been made.

(3) That my Government will not consent that payment shall depend upon the willingness of the Cortes to make the appropriation.

(4) That it will not consent that payment shall await the final adjustment of claims asserted by Spain against us.

This presentation of the conclusions of this Government is approved.

The position of this Government with reference to all other claims now pending between the two countries is stated in my No. 16, of July 14 last, as follows:

This Government is still willing to enter into an agreement for the settlement of all pending claims, but not with any understanding that payment of the Mora claim shall in any wise depend upon the consummation of said agreement or settlement.

To the position thus stated this Government still adheres.

I herewith inclose a draft of a convention which the President is willing to have executed on his behalf for submission to the Senate, whose consent, as the Spanish Government, of course, understands, is necessary. It contemplates a commission to which shall be referred all unsettled claims on the part of citizens of either country against the Government of the other which have arisen and have been diplomatically presented since the date of the last general claims convention between the two countries, to wit, that of February 17, 1834. This covers the case of claims based upon the failure or refusal of this Government to pay interest to Spanish subjects on account of the East Florida awards. Spain, of course, is not concerned in the failure or refusal of this Government to pay interest to its own citizens on such awards. It also covers the claims of Spanish subjects against this Government growing out of our civil war. It likewise includes all claims, except that of Mora, growing out of the embargo of the estates of American citizens in Cuba, which were not disposed of by the arbitrator and umpire appointed under the agreement concluded at Madrid, February 11-12, 1871, between the Spanish minister of state, Señor Cristino Martos, and the minister plenipotentiary of the United States, Gen. Daniel E. Sickles.

In respect to the last-mentioned claims, I desire to call your attention to the fact that most of them were very fully considered, during the year 1887, by Mr. Strobel, then American secretary of legation at Madrid, and Mr. Figuera, an official of the Spanish foreign office.

Of the claims examined by these gentlemen (10 in all) they concluded, and so reported, that 4 should be rejected and 6 should be paid by Spain, fixing the amount of the latter.



It is understood that the Spanish Government at the time the Stobel-Figuera agreement was made, was willing and desirous that it should be accepted by both governments. If that Government still so desires, this Government is willing as part of the proposed convention to accept and confirm that agreement. A draft is herewith sent of a clause, to be added to article I at the end thereof, which it is thought will accomplish that purpose.

I desire to suggest the very great importance that the proposed convention be signed as soon as possible, in order that it may be at once submitted to the Senate of the United States, whose consent thereto must be obtained after it is signed. In this connection it should be remembered that, as Señor Moret has stated, it is not necessary that provision for paying the Mora claim should be embraced in the Cuban budget.

There are certain expressions in Señor Moret's note to you of January 1 which may be construed as an insistence on his part that payment of the Mora claim should be made conditional on the *liquidation and payment* of the Spanish claims against the United States, and in the same note he intimates that you also understood the matter in the same way.

In your reply of January 4 to Señor Moret's note of January 1, you distinctly repudiate the idea that payment of the Mora claim was to await proceedings under the convention; and referring to your conversation with him on the Friday previous, you say:

I therefore understood that while the making of the separate provision for the payment of the Mora claim and the signing of the convention for the settlement of all adjudicated claims were to be concurrent acts, the payment of the Mora claim was in no event to await the proceedings under the convention.

It is possible that Señor Moret might, from this language, draw the inference that payment of the Mora claim should be postponed until the proposed convention is concluded on behalf of both governments. Should he have received any such impression you will be careful to remove it from his mind, by calling his attention to that portion of my No. 16, of July 14 last, which declares that while this Government is willing to enter into an agreement for the settlement of all pending claims, it is "not with any understanding that payment of the Mora claim shall depend upon the consummation of said agreement or settlement."

While it must be distinctly understood, as so often heretofore declared, that payment of Mora's claim can in no way be made dependent on the conclusion of the proposed convention, yet it is sincerely hoped that all embarrassment with the Cortes in regard to said payment may now be removed.

You are authorized to read this instruction to the minister for foreign affairs, and, should he request it, you may leave with him a copy.

I am, etc.

W. Q. GRESHAM.

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[Inclosure 1 in No. 95.]

*Draft of a proposed convention.*

The United States of America and the Kingdom of Spain, animated by a desire to settle and adjust amicably the claims hereinafter specified, pending between the two governments, have agreed to refer the same for examination and decision to a commission to be constituted as hereinafter provided, and to this end the governments of the respective countries have named as their plenipotentiaries as follows: The



President of the United States, Her Majesty the Queen Regent of Spain, who having communicated to each other their respective full powers found in good and due form, have agreed upon the following articles:

#### ARTICLE I.

There shall be appointed a commission consisting of three members, one of whom shall be named by the President of the United States, one by Her Majesty the Queen Regent of Spain, and the third by the President of the United States and Her Majesty the Queen Regent conjointly, and in case the third commissioner shall not have been so named within a period of three months from the date of exchange of ratifications of this convention, then the third commissioner shall be named. \* \* \*

To said commission shall be referred all claims yet remaining unsettled, which, prior to the date of exchange of ratifications of this convention, shall have been diplomatically presented by either Government on behalf of its corporations, companies, or individual citizens or subjects, to the other Government, arising out of rights denied or wrongs committed since the 17th day of February, 1834, to the persons or property of citizens or subjects of the Government presenting the claim, not in the service of the enemies of the other Government or voluntarily giving them aid and comfort: *Provided*, That no claim shall be within the competence of the commission, which is based upon the refusal of the United States to pay interest (either *eo nomine* or by way of damages for loss of use of property or delay in payment) on claims known as East Florida claims, belonging to or derived from persons who were never Spanish subjects or who, subsequently to the occurrences out of which the East Florida claims arose, ceased to be Spanish subjects.

*And provided further*, That no claim against the United States based upon the emancipation or loss of slaves since the 13th day of April, 1861, shall be within the competence of the commission.

The claim of Antonio Maxima Mora against Spain, having been already settled, shall not be within the competence of the commission.

#### ARTICLE II.

In case of the death, absence, or incapacity of any commissioner, or in the event of any commissioner omitting or ceasing to act, the vacancy shall be filled in the manner hereinbefore provided for making the original appointments.

The commissioners named, as hereinbefore provided, shall meet in the city of Washington at the earliest convenient time within six months after the exchange of the ratifications of this convention, and shall then make and subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment and according to public law, justice, and equity, all claims within the description and true meaning of Article I, which shall be laid before them on the parts of the governments of the United States and Spain, respectively, such declaration to be entered upon the record of their proceedings, and the concurring judgment of any two commissioners shall be sufficient for an award or decision upon any claim laid before them, or upon any question to be decided preliminary thereto.

#### ARTICLE III.

The commissioners shall without delay, after the organization of the commission, give notice to the respective governments of the day of their organization and of their readiness to proceed to the transaction of business. They shall investigate and decide said claims in such order and manner as they may think proper, but upon such evidence or information only as shall be furnished by the respective governments. They shall be bound to receive and consider all written documents or statements which may be presented to them by the respective governments in support of or in answer to any of such claims or questions, and to hear, if required, one person on each side on behalf of each government as counsel or agent of such government on each and every claim or question, and each Government shall furnish at the request of the commissioners, or of any two of them, such papers as may be in its possession which may be relevant to the just determination of any of the claims or questions which may be laid before the commission.

#### ARTICLE IV.

All matters by this convention referred to the commissioners shall be presented to them within six months of the day of their first meeting, unless in any case reasons for delay shall be established to their satisfaction, and then, in such case, the period for presentation may be extended by them not exceeding three months, and they shall be bound to examine and render an award or decision upon every claim within one year from the date of their first meeting.

## ARTICLE V.

All sums of money which may be awarded by the said commissioners on account of any of the claims described in Article I of this treaty shall be paid by the one government to the other, as the case may be, at the capital of the government to receive such payment, within twelve months of the date of the final award, without interest, and without any deduction, save as specified in Article VI.

## ARTICLE VI.

The commissioners shall keep an accurate record and correct minutes of all their proceedings, and the governments of the United States and Spain shall each appoint and employ a secretary versed in the language of both countries, and the commissioners may appoint any other necessary employés to assist them in the transaction of the business which may come before them.

Each government shall pay its own commissioner, secretary, agent, or counsel, an equivalent compensation, as near as may be, to that paid like officers on the other side. All other expenses, including the compensation of the third commissioner, shall be defrayed by the two governments in equal moieties.

The entire expenses of the commission including those necessarily incidental, shall be defrayed by a ratable deduction on the amount of the sums awarded by the commissioners or payable under their decision, provided always that such deduction shall not exceed the rate of 5 per centum on the sums so awarded or payable.

If the whole expenses shall exceed this rate, then such excess shall be defrayed jointly by the two governments in equal moieties.

## ARTICLE VII.

The high contracting parties agree to consider the decisions and awards of the commissioners upon all claims and questions within the true meaning of Article I, as final and conclusive, and to give such decisions and awards full effect; and they further agree that all such claims not presented to the said commission shall, after the conclusion of its proceedings, be considered as finally barred.

## ARTICLE VIII.

The present convention shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by the Government of Spain, and the ratification shall be exchanged at Washington at as early a day as may be possible, within twelve months from the date thereof.

In testimony whereof the respective plenipotentiaries have signed the present convention, in the English and Spanish languages, in duplicate, and hereunto affixed their respective seals.

[Inclosure 2 in No. 95.]

*Draft of a proposed clause to same.*

The claims against Spain of Frederick Martinez, of Francisco C. Izquierdo, of Manuel José de Rojas, of José Gregario Delgado, of Pablo Battle, of Manuel Felipe Lopez, of Nestor Ponce de Leon, of José R. Simoni, of Martin Castillo y Agramonte, and of Francisco M. de Acosta y Foster, shall also be deemed to have been settled and shall not be within the competence of the commission. The disposition made of the ten last-mentioned claims by Mr. Edward H. Strobel and Mr. Francisco R. Figuera as shown by the memorandum signed by them at Madrid on the 3d day of May, 1887, is hereby accepted and confirmed. That is to say, the Government of the United States agrees on its part that it will not further present or press for payment, diplomatically or otherwise, the claims against which Mr. Strobel and Mr. Figuera agreed that Spain had valid defenses; to wit, those of Nestor Ponce de Leon, of José R. Simone, of Martin Costello, Agramonte and of Francisco M. de Acosta y Foster against the Government of Spain; and the Government of Spain agrees on its part that it will pay to the United States the amounts determined by Mr. Strobel and Mr. Figuera to be due on the other claims against Spain considered by them as follows:

On account of the claim of Martinez.....	\$7, 056
On account of the claim of Izquierdo .....	2, 310
On account of the claim of Rojas.....	156, 677
On account of the claim of Delgado.....	117, 155
On account of the claim of Battle.....	25, 194
On account of the claim of Lopez.....	20, 000

328, 392

The aggregate amount of the six last-mentioned claims, viz, \$328,392, shall be paid by Spain to the United States at the city of Washington, within twelve months of the date of the final award and decision of the said commission without interest and without any deduction.

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*Mr. Taylor to Mr. Gresham.*

No. 135.]

LEGATION OF THE UNITED STATES,  
*Madrid, March 2, 1894.* (Received March 15.)

SIR: I have the honor to acknowledge the receipt of your No. 95, of the 14th ultimo, concerning the Mora claim, in which you inclose the draft of a proposed convention, and also the draft of a proposed clause to be added to article 1. It is exceedingly gratifying to me to know that my presentation of the case to the minister of state meets with your approval. Last night I had the honor of entertaining Señor Moret at a dinner party given at my house in his honor. After dinner I informed him that I had just received a draft of the proposed convention, which he had requested you to prepare and submit to him, and that I was ready to call upon him for that purpose at any time that he would designate. He assured me that within the next two or three days he would summon me for the interview.

I am, etc.,

HANNIS TAYLOR.

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*Mr. Taylor to Mr. Gresham.*

No. 137.]

LEGATION OF THE UNITED STATES,  
*Madrid, March 5, 1894.* (Received March 15.)

SIR: I have the honor to report that I have received the formal memorandum (in reply to your No. 16, of the 14th of July, touching the Mora claim) promised by the minister of state in his note of January 1, a copy of which I transmitted in my No. 97, of January 4. Inclosed please find a copy of the memorandum, with a carefully prepared translation, and also a copy, with translation, of the note accompanying it.

I am, etc.,

HANNIS TAYLOR.

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[Inclosure 1 in No. 137.]

*Señor Moret to Mr. Taylor.*

MINISTRY OF STATE,  
*Palace, February 26, 1894.*

EXCELLENCY: As I informed you it was my intention so to do, in my note of the 1st ultimo, I now have the honor of placing in your hands the reply of my ministry to the memorandum of the Secretary of State of the United States dated July 14, a copy of which you were so kind as to send me with your courteous note of August 5.

Time-absorbing occupations of a most peremptory character, with the nature of which your excellency is acquainted, have prevented me, much against my will, from performing at an earlier date so pleasant a duty. In performing it now and in this manner I take the opportunity to repeat, etc.

S. MORET.



[Inclosure 2 in No. 137.—Translation.]

*Reply of Señor Moret to the Memorandum of July 14.*

The memorandum sent by the Secretary of State of the United States to the minister plenipotentiary of the Republic in Madrid, dated July 14, 1893, and delivered at the ministry of State of His Catholic Majesty by Mr. Taylor, with the note dated August 5, relating to the Mora claim, presents this case under a light, and contains statements which, although they have been verbally rectified, it is most important that the same should be put in writing.

First of all, it behooves the minister of state of His Catholic Majesty to set forth that the antecedents and history of the case, as embraced in the first paragraphs of the American memorandum, do not correspond exactly to what has occurred.

It can not be admitted, save as an involuntary forgetfulness upon the part of the Government of the Union, the statement that the matter had its origin in an illegal confiscation of property made by the Spanish authorities in Cuba, nor in any offense whatsoever against citizens of that Republic, nor even in a flagrant injustice to Spanish subjects who, afterwards, more or less successfully, sought the protection of American nationality.

The seizure decreed and the proceedings against the property which was owned in Cuba by Mora and others date from the time when they were Spanish subjects and supported there the rebellion personally or with their means and resources. For these grave offenses, which were fully proven, the proper authority pronounced with undeniable legality its judgments, and Mora was one of those against whom sentence was passed.

As to one point most certainly, that of the seizure of the property, the Government of Washington has proceeded in a similar manner, because it knows very well that its predecessors applied rules similar to those of Spain in like cases. In this connection it will be sufficient to call to mind that by the decree of the 22d of June, 1862, the Minister of War of the United States of the North, with the approval of the President, ordered the military commanders operating in the Southern States to take and avail themselves of all the chattel and landed property that might be needed by their armies, without even fixing as a condition to such confiscations the personal delinquency of the owners of such property, a power which was ratified by a law of that same month and year.

Furthermore, the magnanimous generosity, unusual in civil strifes, with which the Spanish authorities listened to and decided upon the claims made before them by those concerned in said seizures, is well known. Antonio Maximo Mora did not protest against the seizure of his property to the governmental authority, nor did he appear before the court which judged his offense.

Although this part of the discussion has been concluded, and the only practical and proper thing that remains refers to the carrying out of the agreement of 1886, it is deemed advisable to set forth what has been already said, in order that the further action of both Governments may not draw its inspirations from erroneous sources, which might divest the matter of its character of friendly concessions made by the Spanish Government, in its desire to preserve the closest friendship with the Government of the United States. The Mora question, the case at issue, is not one of those matters of strict justice which require immediate reparation and which the Government ought, therefore, to consider as their unavoidable duty to conclude, but rather it is incident of long-standing and numerous claims which, being most of them decided upon, may only be brought to a new and final decision by the desire which animates both governments to cause the disappearance of all occasion of friction or cause of grievance between the two countries.

Another error which the American memorandum contains is the supposition that the Spanish Government received and profited by the proceeds of the Mora property. It appears from the papers (*expediente*) that quite the contrary was the case. The seizure of the Mora property having been decreed in April, 1869, without his having made any protest against that decision before the governmental authority, Mora's creditors presented themselves with claims, which made the declaration of his insolvency unavoidable; so that the Mora case very soon fell within the jurisdiction of the ordinary court, and the seized property and its administration passed over into the custody of the competent court (*Juzgado de Belen de la Habana*). The trustees of the assembled creditors, appointed in the judicial proceedings to perform a duty perfectly defined by law, are those who collected the proceeds from the property of the bankrupt, without retention of any part of the same having been made by the state, as it is erroneously supposed by the American memorandum.

The accuracy of the facts having been reestablished and accentuated, the minister of state of His Catholic Majesty proceeds to the examination of other matters which affect the pending negotiation.

It can not be said, without going openly against the facts, that the Spanish Government agreed to fix the Mora indemnity, asked for by the United States, by the *unconditional* payment of the sum agreed upon of \$1,500,000. The arrangement then entered upon was essentially *conditional*; so much so that, had not Mr. Curry accepted this fundamental condition imposed by the minister of state, namely, to conclude the payment by means of a bill in the legislatures to include, for the purpose of making the payment, a sum of money in the Cuban budget, it would have been impossible to conclude the negotiation. It is important to have this specially stated, because the history of this question has a decisive influence upon the judgment to be made in regard to the matter by public opinion and the Parliament.

It might be thought that the U. S. Government understood that the condition imposed by the Spanish Government was a mere formula, and only suggested to comply with the constitutional requisites which prevent every parliamentary government from disposing of any amount whatever of money without obtaining the approval of its chambers. But this hypothesis disappears when the fact is remembered that if, up to the Cuban budget of 1880-'81, the Spanish Government could declare of its own accord payments, to be charged to the treasury of Cuba, without any need of obtaining the approval of the Cortes, this state of affairs terminated in the first of the said years, since which time the budgets of said island are on the same footing with those of the peninsula, and the power of the minister of the colonies is identical with that of the minister of finance of the peninsula. The American Government, which had in former times received the payment of like indemnities by the sole authority of the executive power, knew, therefore, that circumstances had changed, and that the authority of the Parliament, pointed out by the minister of state, was not a mere formula, but rather a logical consequence of the transformation which had taken place in the procedure of Spanish legislation, and consequently a decisive clause and an essential condition of the pending claim.

Under these circumstances and the fundamental condition of the settlement once admitted by Mr. Curry, as has been said already, without the slightest observation, the matter fully entered into and has remained ever since under the jurisdiction of Parliament. If, therefore, as it is understood from the perusal of the memorandum, the Washington Cabinet considers the matter as definitely terminated from the moment the Spanish Government *offered* the indemnity, its appreciation rests on a wrong idea, because, as the *essential basis of the agreement implied the intervention of Parliament*, to which body the matter was submitted in applying for the necessary funds, it was therefore evident that if said body did not vote the funds, or if it did so only under certain conditions, as proposed by the budget commission, it would become necessary to negotiate anew in accordance with the decision of Congress. And although this doctrine is beyond discussion, and has never been caviled at, let it draw corroboration and support from the example presented by the American chambers, which have made to depend upon a law, though not voted, the payment of the interest, also liquidated but unpaid, of the so-called Florida indemnities. And more recently and not less decisive is the fact of the Washington chambers having denied their sanction to the commercial agreement with Spain, and at a more remote date the votes of that assembly, in spite of the reciprocal sentiments of friendship then existing, were the obstacle to the satisfaction of Cuba's legitimate claims which were most worthy in equity and justice.

The authorization and legalization of any considerable expenditure or charge upon the public treasury being by the Spanish constitution a prerogative of the Cortes and the Crown, and it being besides a special right or privilege of Parliament to interfere in international politics, it is logical to suppose that every treaty or agreement of the executive power is understood to be always subject to the limitations of its own constitutional power, so that, even if nothing had been said as to the form and manner of payment of the Mora indemnity, it would always have been taken for granted that the Spanish Government must submit to the Cortes the form, time, and manner of payment of the \$1,500,000 agreed upon.

Returning now to the memorandum and replying to observations made therein, it must be remembered that the powerful motives which had influenced the course of the Spanish Government to omit from the budget of 1888-'89 the provision inserted in that of the previous year, are to be found in the notes of May 12 and August 7, 1888, which recite that:

"In view of the result of the discussion in Congress and the state of public opinion regarding the matter under debate, the Cortes would not sanction the project of the Government, unless the application for the necessary funds for the payment of the sum to Mr. Mora, was accompanied by an arrangement between the two governments relative to the whole of the American claims, providing in such a way that all claims be definitely settled and liquidated, as well the claims which the United States hold against Spain and which have been the subject of the last negotiations, as those which Spain would present against the U. S. Government."



In reference to the declaration made by the ministry of state, in its note of May 12, 1888, alluded to in the memorandum, of the fact that nothing hindered the petition for the necessary funds to be placed in the Cuban budget for 1888-'89, because the Government could at any time present a project of law to the chambers, does not modify or alter in the least what has already been explained, because a project of law or bill is always subordinate to the will of the Cortes, such an indication having been made for the purposes of facilitating the total settlement of the question, in harmony with the desire manifested by the Cortes.

To claim, therefore, as to the payment of the Mora indemnity, that the will of the Cortes is subject to the Government, and that the former is obliged to blindly vote the necessary funds for the payment of the claim, is a doctrine so contrary to all parliamentary law and so much opposed to all precedents upon every kind of questions offered by the constitutional history of the United States that it is difficult to understand for what object it is advanced. It will be but just to meet that theory with the following: The parliamentary power is so omnipotent that even when, for reasons of propriety, the chambers might believe themselves in duty bound to keep silence upon some question of this kind, if it was not their wish to vote the credit which the Government asked, they would be able, by a vote of censure or by voting against the minister that had made the agreement, to put off indefinitely the settlement asked for.

This much being said it is fair to add that to the Spanish Government can not with justice be attributed the purpose of delaying the final termination of this matter. Striking proof of it is that upon expressing the powerful reasons that prevented it from accepting the project of agreement presented by Mr. Curry in December, 1887, for the settlement of the reciprocal claims, the Government of His Majesty, in a note of October 15, 1888, submitted to the recognized wisdom of the representative of the United States the suggestion whether it would not be more just and reasonable to have recourse, in examining and liquidating the Spanish claims, to the same mode of procedure which was followed in the ministry of state with regard to the claims of the American citizens, and which resulted in the Strobel-Figuera agreement, accepted and approved by Mr. Curry in his note of December 16, 1887. In concluding this note Mr. Curry added that as a well-merited recompense for the act of justice concluded by the Spanish Government, and as a proof of reciprocity and appreciation for the action of Spain, it was only right and proper that the Government of the United States in its turn should examine and settle (solventar) the Spanish claims.

And now in this memorandum it is said that this agreement was not ratified by the American Government. The ministry of state was not aware that this was a fact; in view of the explicit declaration of Mr. Curry on the question, it was of a different opinion.

In regard to the Spanish claim of Maza and Larrache, which is also referred to in the memorandum, it being stated that the Government of the United States has invariably refused to accept any responsibility to pay this claim, the ministry of state considers that there is here an erroneous conception of the matter, for the reason that when Mr. Frelinghuysen was Secretary of State he promised to take the matter into consideration. Furthermore, the Supreme Court of the United States has recognized the right to indemnity of the two claimants, for the losses suffered by the capture of their cotton, deciding in consequence many cases not only in favor of American citizens, but also in favor of English and French subjects by means of international agreements established by treaty. But leaving this aside and unconsidered, article 16 of the treaty of 1795, confirmed in 1819, does not describe cotton as contraband of war except when it enters as material for the construction of instruments to be used in war; which was not the case in the instance above referred to and which we are now concerned with.

Before concluding, the minister of state deems it his duty to recall to mind what he has already, on another occasion, expressed, and that is, that the Government at Washington should not fail to understand, in its consideration of the question, the impossibility of any government to contend, with hope of success, against the opinion of Parliament and of the country at large, when they see that while Spain has religiously and completely satisfied all the claims presented by the United States, the day never comes on which the claims which in turn are presented by the Government of His Majesty are to be attended to and satisfied. From this condition of things there results an inequality which can find no place in the rectitude and impartiality of the men who succeed one another in the Government of the Union.

I am convinced that the Cortes of the Kingdom would not fail to vote the credit necessary for the payment of the American claim, if they should understand that this payment would coincide with the payment of the Spanish claims by the Government of the United States.

The efforts, then, of both Governments should be directed to the finding of a method which will permit them to realize these aspirations; and as both Govern-



ments are equally animated by similar sentiments of equity and justice, they will certainly not fail to attain the end which they have in view, to the advantage of the sacred interests with which they are intrusted.

Palpable proof of this is the understanding which was reached in the friendly conference which occurred on the 28th of December between the representatives of the United States and the minister of state of His Catholic Majesty. If this understanding takes a practical form, the presentation to the American Congress of a bill, referring to the liquidation and payment of the Spanish claims, would have to be simultaneous with the presentation in the Spanish Chamber of another bill providing for the payment of the Mora claim. That is to say, that these two bills, although presented separately, have to be developed in parallel lines, according to the happy and fitting expression of the worthy representative of the Union, Mr. Taylor.

The Government of His Majesty ratifies the declarations already made to examine with all care the project of a treaty to settle the Spanish claims, which the Government of the United States is about to send.

S. MORET.

MADRID, February 26, 1894.

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*Mr. Taylor to Mr. Gresham.*

[Extract.]

No. 140.]

LEGATION OF THE UNITED STATES,  
*Madrid, March 8, 1894. (Received March 26.)*

SIR: In my No. 135, of the 2d instant, I informed you of the promise of the minister of state to summon me in a few days for the discussion of the proposed convention. Yesterday I received a personal note, a copy of which I inclose with translation, in which he requests a delay until the termination of the pending cabinet crisis. It seems to be certain that the present cabinet will be reorganized in a very few days, after the withdrawal of several members. As soon as the reorganization is effected I will press the convention for discussion. In the meantime it is useless to attempt anything.

I am, etc.,

HANNIS TAYLOR.

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[Inclosure in No. 140.—Translation.]

*Señor S. Moret to Mr. Taylor.*

MARCH 6, 1894.

MY DISTINGUISHED FRIEND: I have to apologize to you, and I hope you will excuse me for not having you summoned yesterday (Monday) as I had promised you. I have been prevented, on one side, by the urgent character of the Morocco affairs, and on the other, by the possibility of a cabinet crisis, which may occur at any moment, and which would render useless the work which we are about to commence.

I believe that this important question will be decided very soon, and I hope that you will agree with me, that in the situation in which the Government finds itself, it is prudent and even necessary for me to await the result before entering upon the discussion of such an important matter as that which we have pending.

I remain, etc.,

S. MORET.

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*Mr. Taylor to Mr. Gresham.*

No. 143.]

LEGATION OF THE UNITED STATES,  
*Madrid, March 16, 1894. (Received March 30.)*

SIR: I have the honor to report that yesterday I received a note from the minister of state, informing me that he would be ready to receive me at 4 o'clock. At the appointed time I met him in the ministry

of state and read to him your dispatch No. 95, of the 14th ultimo, touching the proposed convention for the settlement of claims. As he desired a copy of what I read to him, I left with him a copy according to your instructions. I also presented to him a copy of the draft of the proposed convention, together with a copy of the draft of a proposed clause to be added to article 1. The minister expressed the very greatest pleasure at the receipt of the documents, and he assured me that they should receive his immediate personal attention, and that at an early day he would submit them to his colleagues of the cabinet.

I am, etc.,

HANNIS TAYLOR.

*Mr. Gresham to Mr. Taylor.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, March 20, 1894.

Mr. Gresham after reviewing the statements contained in the note of the Spanish minister of state, submitted in dispatch No. 37, declares that the agreement was unconditional, and that all departments of the Spanish Government were bound by it; to say that one of those departments does not recognize the binding force of the obligation is no answer to the instructions sent to Mr. Taylor.

*Mr. Taylor to Mr. Gresham.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
Madrid, March 21, 1894.

Mr. Taylor reports that he has communicated to the minister of state in a note, copy of which has been mailed, the contents of Mr. Gresham's telegram, to emphasize what he had already said to him after the receipt of his (the minister of state's) answer to instruction No. 16 when he read to him instruction No. 95, as restating the Department's position denying the contention that the promise to pay the Mora claim was subject to implied condition of appropriation by the Cortes.

*Mr. Taylor to Mr. Gresham.*

[Extract.]

No. 147.]

LEGATION OF THE UNITED STATES,  
Madrid, March 22, 1894. (Received April 2.)

SIR: Yesterday I had the honor to receive your cipher telegram concerning the Mora memorandum. \* \* \* I immediately addressed a note to the minister of the state, a copy of which is inclosed herein.

I then sent you a telegram. \* \* \* The two documents last named will explain to you my action after the receipt of the minister of state's memorandum of the 26th ultimo in reply to your No. 16 of the 14th of July last. A day or two after the receipt of the memorandum I received your No. 95 of the 14th ultimo, in which you saw fit to approve the four propositions in which I had restated your conclusions. Thus armed with your approval I thought it far wiser to simply read to the minister your No. 95 in answer to his memorandum, rather than to enter into a fresh discussion of its contents, prior to your perusal of it. As soon, however, as your telegram was received, I at once embodied its contents in the note which I inclose, and sent the same to the minister in order to emphasize what I had said already. In that way, I think your views upon the vital question have now received all the emphasis which language can give them. \* \* \*

I am, etc.,

HANNIS TAYLOR.

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[Inclosure in No. 147.]

*Mr. Taylor to Señor Moret.*

LEGATION OF THE UNITED STATES.

*Madrid, March 21, 1894.*

EXCELLENCY: I duly transmitted to Washington the memorandum of the 26th ultimo, which I had the honor to receive from you as your formal answer to the note of 14th of July last from the Secretary of State, defining the position of the Government of the United States as to the payment of the Mora claim. You will remember that in our last interview of the 15th instant, I first read to you, and then, at your request, delivered to you—as a rejoinder to your memorandum—a copy of the dispatch addressed to me by the Secretary of State on the 14th ultimo. In that dispatch the four propositions carefully defining the position of my Government as to the payment of the Mora claim, previously submitted by me to you, are expressly approved.

The reading of the third proposition—"that my Government will not consent that payment shall depend upon the willingness of the Cortes to make the appropriation"—was intended as a succinct yet emphatic reiteration of its original position in answer to your contention that the unqualified promise to pay the Mora claim, made by your Government in your note of November 29, 1886, was subject to the *implied condition* that the Cortes would make the appropriation. In order that no possible ambiguity shall exist upon that point, my Government, since the receipt of your memorandum of the 26th ultimo, has sent me the following telegram: "Your dispatch transmitting the answer of the minister of state (February 26, 1894) to my note (No. 16, of the 14th of July, 1893) received. The minister says Spain's agreement to pay the Mora claim was conditional; that the consent of the Cortes was implied; that its refusal to appropriate money necessitated a new agreement; and that the Cortes will make an appropriation to pay the claim, provided such payment coincides with the payment of Spanish claims against the United States. It is no answer to my instruction to you to say that one department of the Spanish Government does not recognize the force of an obligation binding equally upon all."

I transmit to you at once the substance of this telegram in order to give additional emphasis to the statements contained in the Secretary of State's note of the 14th ultimo, which I first read and then delivered to you on the 15th instant in reply to your memorandum of the 26th ultimo. I hope you will understand that while my Government has submitted to you, in accordance with your request, the draft of a treaty looking to the adjudication of Spanish claims against the United States, it has done so in a formal note which denies, with all possible emphasis, your contention that the positive agreement to pay the Mora claim, made by the Government of Spain on the 29th day of November, 1886, was made subject to the *implied condition* that the Cortes would make the appropriation.

I seize, etc.,

HANNIS TAYLOR.



*Mr. Taylor to Mr. Gresham.*

[Extract.]

No. 149.]

LEGATION OF THE UNITED STATES,  
*Madrid, March 29, 1894. (Received April 9.)*

SIR: In my No. 147 of the 22d instant, I inclosed to you a copy of my note to the minister of state concerning the Mora claim, written after the receipt of your last cipher telegram on that subject. I have to-day received the minister's reply to my note, a copy of which I inclose herein with translation. You will observe that the reply closes with the following statement:

When on this point all ambiguity shall have disappeared—which I can not understand, as the question is one of public law—the negotiation will be proceeded with in the loyal and friendly manner in which your excellency and I have arranged to conduct it.

I take this to be a plain intimation that no further advance can be made in the way of friendly negotiation until some common understanding is reached as to the abstract question of constitutional law in which we have become involved.

I am, etc.,

HANNIS TAYLOR.

[Inclosure in No. 149.—Translation.]

*Señor Moret to Mr. Taylor.*MINISTRY OF STATE,  
*Palace, March 27, 1894.*

MY DEAR SIR: On my return to Madrid I find the note of your excellency, under date of the 21st of this month, in which you are so kind as to communicate to me an abstract of a telegram recently received by you from Washington. The importance of the question which your excellency lays before me, accentuated by the telegram referred to, obliges me to reply immediately with the same purpose as that which animates your excellency, namely, that all doubt or uncertainty in regard to the obligations contracted by the Spanish Government may disappear.

The loyalty with which the Government of His Majesty is proceeding in these questions demands that the attitude to one another of the two Governments should be clearly defined, so that any difficulties that may subsequently arise in the course of the negotiations may not be attributed to a want of clearness. It is, therefore, incumbent upon me, once and for all, to make it quite clear that the Spanish Government has not in the past, and can not in the future enter upon any obligation which would imply the payment of moneys of any kind, without first having obtained the consent of the Cortes.

This is not a matter which admits of discussion or one in anyway dependent upon the will of particular governments. It is a logical sequence of the Constitution, the foundation of the law of the country, and this being known to the Government of the United States as well as to all other governments which entertain relations with Spain, it will be unnecessary to enter into further demonstration of our commentaries on the subject. It would be furthermore quite useless to enter upon further exposition of the question, because should any government or any minister contract such an obligation, it would prove null and void of itself, as having been assumed by one who possessed no such full powers.

Such most certainly was not the case in former years, when the minister of the colonies, and consequently through him the Government, was able to decree by himself the payment of such sums as were to be charged against the treasury of Cuba and of Puerto Rico. But since this legislation was modified, as I had occasion to call your attention to in my note of February 26, no payment can be made without the express consent of the Chambers. For this reason, special attention was called to the matter and on this account doubtless Mr. Curry signed, when the negotiations in regard to the payment of the claim of Antonio Maximo Mora was concluded. The recognition of which was pushed by the Government of the United States with such perseverance, well assured that without this condition the obligation assumed

by the Minister of State could not be realized by the only means at the disposition of the Government.

This point being unquestionable, it can not be disputed, as a natural consequence, that Parliament is at perfect liberty to approve or disapprove of the conduct of the Government. There is no want of argument to prove this and the less in a discussion with the Government of the Republic of the United States, ruled by a constitution the strict interpretation of which regulates and directs the course of national politics. Still it is not idle to repeat that the stipulation—most formal and most solemn of those that are negotiated between the governments, that is, treaties of commerce—can not be ratified without the approval of Parliament, whose full power to accept or refuse them no one as yet has ever placed in doubt.

It is very important to have this point completely cleared up, so that all misunderstanding may disappear and the Government of the United States see that just as it would be impossible for it to decree the recognition of the Spanish claims without the concurrence of the Senate, so it is that the Spanish ministers are not invested with the power to pay the Mora indemnity or any other indemnity without an express vote of the Cortes.

When on this point all ambiguity shall have disappeared, which I can not understand, as the question is one of public law, the negotiation will be proceeded with in the loyal and friendly manner in which your excellency and I have arranged to conduct it.

I avail myself, etc.,

S. MORET.

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*Mr. Gresham to Mr. Taylor.*

No. 134.]

DEPARTMENT OF STATE,  
*Washington, June 5, 1894.*

SIR: I have to acknowledge the receipt of your Nos. 135, 137, 140, 147, and 149, as well as your telegram of 21st March, all in reference to the Mora case.

I now desire to make some observations upon Mr. Moret's communications of February 26 and March 27, copies of which were received with your Nos. 137 and 149, respectively.

Mr. Moret says that the Department's instruction to you of July 14 last "contains statements which, although they have been verbally rectified," he deems important to answer in writing.

This Department knows nothing of any verbal rectification of any of the statements contained in that instruction in Mr. Moret's verbal interview with you on this subject, as reported by you to the Department, there was no denial of those statements, but rather an implied admission of their correctness, coupled with a request that you should suggest some means of extrication from the dilemma in which he found himself placed between the undeniable facts and his own explicit promises on the one hand and the hostile disposition of the Cortes on the other.

The answer of Mr. Moret conveys to this Department the first intimation that the Spanish Government controverted any of the statements contained in the instruction of July 14.

Mr. Moret asserts that—

The seizure and the proceedings against the property which was owned in Cuba by Mora and others dates from the time when they were Spanish subjects and supported there the rebellion personally or with their means and resources.

It is quite unnecessary to enter upon a discussion of the question of Mora's citizenship as the time of the first interference with his property by the Spanish Government; it is equally unnecessary to inquire into the question of his sympathies during the Cuban insurrection.



It suffices to refer to the following facts, which must be well known to Mr. Moret:

(1) Time and again after November 7, 1870, when the court-martial at Havana condemned Mora to death and confiscated his property—he being at that time undoubtedly an American citizen—this Government insisted that his property should be restored to him.

(2) On July 12, 1873, the Spanish Government issued an order for the restoration of all the embargoed properties in Cuba, which, of course, includes Mora's.

(3) The Cuban authorities failed to obey this order.

(4) On September 9, 1873, this Government having ascertained that the Cuban authorities were acting in disregard of the order of restitution, telegraphed our minister at Madrid, Mr. Sickles, to protest against the action.

(5) Gen. Sickles, in reply to this protest, was assured by the Spanish Government that the claims of American citizens had been favorably decided, and that orders had been again sent to the captain-general of Cuba to restore the property.

(6) Those orders not having been complied with, the Spanish Government in 1876 again promised restoration.

(7) Notwithstanding all this, Mora's property never was restored to him.

(8 and finally) The agreement of 1886 to pay Mora \$1,500,000 was a compromise, and a liquidation most favorable to Spain, of the damages to which Mora was entitled, in lieu of his property which had been unlawfully confiscated, and the restoration of which had been several times decreed by the Spanish Government, in acknowledgment of his title to the same.

It is, therefore, impossible for this Government to regard the promise to pay this claim as a mere "friendly concession made by the Spanish Government in its desire to preserve the closest friendship with the United States." Nor is it possible for this Government to agree with Mr. Moret that the question "is not one of those matters of strict justice which require immediate reparation."

The statement that the Spanish Government received the income from the Mora estates, which Mr. Moret now says is erroneous, was based upon his own assertion made in the Cortes during the debate upon this very case in the year 1888. This assertion is still believed to be correct, notwithstanding the trustees under the insolvency proceedings against Mora may have in the first instance collected the income. For, by virtue of article 52 of the code of civil procedure then in force in Cuba, taken in connection with the royal order of October 30, 1862, the trustees were obliged to deposit all money collected by them in the public treasury. In the treasury they did deposit it, and to the treasury they appealed in vain to have allowed them even a portion of it to meet the necessary expenses of the estate under their charge. Whether, however, the Spanish Government did or did not receive this income, is immaterial to the rights of this Government or the obligations of Spain.

Mr. Moret promised that the sum to be paid should be charged up to the Cuban budget, and this Government can not concur in the view now advanced by him that its rights thus became conditional upon the action of the Cortes. The promise to pay the liquidated amount (\$1,500,000) was based upon an existing right, the justice of which had already been more than once acknowledged by the Spanish Government in its decrees directing a restoration of the property. Surely it will not be said the



consent of the Cortes was necessary to the restoration of the property itself. Mr. Moret will scarcely contend that the executive authority could arbitrarily seize the property and refuse to restore it on the ground that the legislature would not agree to the restoration.

The inhibitions of the Spanish constitution, which it is claimed do not permit the sovereign to pay money without the consent of the Cortes, can not be urged by Spain as a ground for not paying the money which it was agreed should be received in lieu of the property itself. This Government regrets the parliamentary difficulties which embarrass Spain in providing the funds for the payment of Mora's claim, and desires as far as possible to cooperate with that Government in removing them. But the mere existence of these obstacles can not in the opinion of this Government exonerate Spain from her obligation. Could such a doctrine be maintained, even an arbitration of claims would be futile, for the money awarded would still have to be appropriated, and Mr. Moret's theory would make the Cortes' refusal to appropriate a conclusive answer to a demand for compliance with the award.

Should the President and the Senate conclude a treaty with Spain or any other power requiring an expenditure of money by this Government, an appropriation of the amount by the House of Representatives would be necessary, but failure by that body to make the appropriation could not be offered and would not be accepted as an excuse for non-fulfillment of the treaty.

This Government, while not admitting that its rights or the obligation of Spain are effected by the failure of the Cortes to make an appropriation, understands and appreciates the difficulty which the nonaction of the Cortes creates, and has sought to remove this difficulty by proposing a convention for the settlement of pending and unadjusted claims between the two countries. The United States confidently entertains the hope that as soon as such a convention is agreed upon Mr. Moret will be able, without further delay, to pass a bill through the Cortes for the payment of the Mora claim, and you are instructed to again bring to the attention of the Spanish Government my No. 95, of February 14, 1894, and the draft which accompanied it, and inform Mr. Moret that the President is willing to conclude a treaty on that basis.

You will read this instruction to the minister of state and leave a copy of it with him.

I am, etc.,

W. Q. GRESHAM.

*Mr. Taylor to Mr. Gresham.*

No. 194.]

UNITED STATES LEGATION,  
*Madrid, June 23, 1894.*

SIR: I have the honor to report that in an interview which I had with the minister of state yesterday, I read to him your instruction No. 134, of the 5th instant, concerning the Mora claim. I then presented him with a copy of the same without any comment whatever, according to the directions contained in your unofficial note of the 6th instant.

I am, etc.,

HANNIS TAYLOR.

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*Mr. Gresham to Mr. Taylor.*

No. 193.]

DEPARTMENT OF STATE,  
*Washington, September 17, 1894.*

SIR: You are instructed to remind the Spanish Government that no reply has been made to the last communication from the Department on the subject of the Mora claim, a copy of which, you reported in your No. 194 of June 23 last, you presented on the day previous to the minister of state.

This Government earnestly hopes for a favorable response at an early day. The correspondence in the case was called for and submitted to the Senate at its last session.

I am, etc.,

W. Q. GRESHAM.

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*Mr. Taylor to Mr. Gresham.*

No. 239.]

LEGATION OF THE UNITED STATES,  
*Madrid, September 29, 1894.*

SIR: I have the honor to report, in reply to your No. 193, of the 17th instant, that I have reminded the minister of state of his failure to answer your last communication touching the Mora claim, which I read to him on the 22d of June last, and a copy of which I, at the same time, delivered to him. I repeated your earnest hope for a favorable response at an early day, informing him at the same time that the correspondence in the case had been called for and submitted to the Senate at its last session.

I am, etc.,

HANNIS TAYLOR.

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*Mr. Taylor to Mr. Gresham.*

No. 242.]

LEGATION OF THE UNITED STATES,  
*Madrid, October 3, 1894.*

SIR: I have the honor to inclose herein, with translation, a copy of the minister of state's reply to my note of the 29th ultimo, touching his failure to answer your note of the 22d of June last in reference to the Mora claim.

I am, etc.,

HANNIS TAYLOR.

[Inclosure in No. 242.—Translation.]

*Mr. Moret to Mr. Taylor.*MINISTRY OF STATE,  
*Palace, October 1, 1894.*

EXCELLENCY.

MY DEAR SIR: While acknowledging the receipt of your note of the 29th, I hasten to inform you that the delay in answering the communication which you had the kindness to address to me on the 22d of June last resulted from the fact that I have been heretofore unable, for well-known reasons, to communicate its contents to the council of ministers.

I have already had occasion to inform your excellency that the nature of this affair, on account of the parliamentary state in which it now is, makes it impossible for the ministry of state alone to adopt any decision in the matter without the concurrence of the council of ministers.

As soon as the ministers meet again in Madrid, and the president is present at the sessions, I will consult with him on the subject.

I seize, etc.,

S. MORET.



IMPORT DUTIES LEVIED ON CERTAIN PRODUCTS OF COLOMBIA,  
HAITI, AND VENEZUELA UNDER SECTION 3 OF THE ACT OF OCTO-  
BER 1, 1890.<sup>1</sup>

*Mr. Blaine to Señor Hurtado.*

DEPARTMENT OF STATE,  
*Washington, January 7, 1892.*

SIR: I am directed by the President to again bring to your attention the provisions of the tariff law of the Congress of the United States, approved October 1, 1890, in which provision was made for the admission into the United States, free of all duty, of the following articles, to wit: All sugars not above No. 16 Dutch standard in color, molasses, coffee, tea, and hides. In section 3 of this law it is declared that these remissions of duty were made "with a view to secure reciprocal trade with countries producing" those articles, and it is provided that—

On and after the first day of January, 1892, whenever and so often as the President shall be satisfied that the Government of any country producing and exporting sugars, molasses, coffee, tea, and hides, raw and uncured, or any of such articles, imposes duties or other exactions upon the agricultural or other products of the United States which, in view of the free introduction of such sugar, molasses, coffee, tea, and hides into the United States he may deem to be reciprocally unequal and unreasonable, he shall have the power and it shall be his duty to suspend, by proclamation to that effect, the provisions of this act relating to the free introduction of such sugar, molasses, coffee, tea, and hides, the production of such country, for such time as he shall deem just, and in such case and during such suspension duties shall be levied, collected, and paid upon sugar, molasses, coffee, tea, and hides, the product of or exported from such designated country,

at the rates set forth in said section 3.

I am further directed by the President to inform you that, in view of the free introduction into the United States of the articles named, the product of Colombia, he deems the duties imposed upon the agricultural and other products of the United States, on their introduction into Colombia, to be reciprocally unequal and unreasonable; and that, unless on or before the 15th day of March next some satisfactory commercial arrangement is entered upon between the Government of the United States and the Government of Colombia, or unless some action is taken by the latter Government whereby the unequal and unreasonable state of the trade relations between the two countries is removed, the President will, on the date last named, issue his proclamation suspending the provisions of the tariff law cited, relating to the free introduction of such sugar, molasses, coffee, tea, and hides, the production of Colombia, and during such suspension the duties set forth in section 3 of said law shall be levied, collected, and paid upon sugar, molasses, coffee, tea, and hides, the product of or exported from Colombia.

In asking you to transmit to your Government the foregoing information, I beg to repeat to you the assurance, given in my note to you of January 3, 1891, and repeated to you and to your Government at various times since that date, of the earnest desire of the Government of the United States to maintain with the Republic of Colombia such trade relations as shall be reciprocally equal and mutually advanta-

<sup>1</sup> Reprinted from Senate Ex. Doc. No. 56, Fifty-third Congress, second session.

geous, and to express the hope that before the date fixed in this note an adjustment of the commercial relations may be reached between the two countries on a permanent basis, profitable alike to both.

Accept, etc.,

JAMES G. BLAINE.

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*Señor Hurtado to Mr. Blaine.*

LEGATION OF COLOMBIA,

*Washington, February 25, 1892. (Received February 27.)*

SIR: I had the honor to duly receive your note of the 7th of January last past, in which you made known to me that you had been directed by His Excellency the President to again bring my attention to the third section of the tariff law of the United States, approved by Congress on the 1st of October, 1890, the provisions of which you recite.

You then state that you had been further directed by His Excellency the President to inform me that in view of the free introduction into the United States of certain grades of sugar, molasses, coffee, tea, and hides, he deems the duties imposed upon the agricultural and other products of the United States, on their introduction into Colombia, to be reciprocally unequal and unreasonable, and that unless on or before the 15th day of March next some satisfactory commercial arrangement is entered upon between the Government of the United States and the Government of Colombia, or unless some action is taken by the latter Government whereby the unequal and unreasonable state of the trade relations between the two countries be removed the President will, on the day last named, issue his proclamation suspending the provisions of the tariff cited relating to the free introduction of such sugar, molasses, coffee, tea, and hides, the production of Colombia, and that during such suspension the duties set forth in section 3 of said law shall be levied, collected, and paid upon them.

On receipt of your said note of the 7th of January I sent a copy thereof to the minister of foreign relations at Bogota, which went forward by the mail appointed to leave New York, via Colon, on the 11th of January; and from instructions received at this legation previous and subsequently to that date I am enabled to offer some remarks on the contents of your said note, which I shall proceed to submit, with a view to expedite the full and proper consideration of this important matter.

Reserving all rights growing out of treaty stipulations existing between Colombia and the United States of America, in connection with the subject under consideration, I beg leave to observe, in the first place, that such changes in the tariff law of Colombia as are contemplated by the tenor and spirit of your note can not be effected otherwise than through the action of the Legislature. Congress in Colombia meets on the 20th of July of every alternate year. The last ordinary session came to a close in November, 1890; that is to say, when the tariff law of the United States, adopted on the 1st of the previous month, could barely have become known in Bogota, in the form it was approved, and long before you were good enough to call the attention of this legation, for the information of my Government, to the provisions of the third section of the said law. The President of Colombia has therefore had no opportunity to ascertain the sense of Congress respecting the provisions contained in the third section of the said law of the 1st of October, 1890; nor will he be able to do so and obtain the proper authority from the Legislature to adopt measures in connection



therewith until after the next meeting of Congress, which will take place on the 20th of July of the present year.

These facts must have escaped the notice of His Excellency President Harrison, at the time of framing the resolution which you have done me the honor to communicate to me in your note of the 7th of January last past; otherwise, judging from the just and equitable spirit which has characterized the proceedings of the present Administration in its relations with the Government of Colombia, a later date than the 15th of next March would, no doubt, have been fixed upon for the issuance of the contemplated proclamation to suspend, under certain contingencies, the exemption from import duties enjoyed under the tariff act by certain articles, the produce of Colombia, on their introduction into the United States.

Under these circumstances, due regard being had on the one hand to the inability of the President of Colombia to deal for the time being in a definite manner with the subject-matter of your said note of the 7th of January last, and on the other part to his earnest desire to follow in this emergency such a course as will result in an amicable, equitable, and mutually satisfactory solution of the situation arising out of the provisions of the third section of the United States tariff act, I am directed by my Government to express the hope that His Excellency the President of the United States, after he shall have given due consideration to the position of things as above described, will be pleased to allow the trade relations between the two countries to continue undisturbed until such time, at least, as the President of Colombia may be able to obtain from Congress instructions and authority to treat upon and dispose of this matter.

And I am further directed, in cordial response to the desire of your Government (expressed in the last paragraph of your note), to maintain mutually advantageous trade relations with the Republic of Colombia; and as an earnest of the favorable dispositions entertained by the President toward the adjustment of this question, to convey to you the assurance that it is his intention to recommend to Congress, immediately after its organization, the extension of the free tariff list, so as to include articles at present liable to duty upon their introduction into Colombia and the consumption of which would be fostered if relieved from import duties.

With reference to the designation of "reciprocally unequal and unreasonable," bestowed on the import duties of Colombia as affecting agricultural and other American products, I am requested to state that the conclusion reached by His Excellency the President in this respect has greatly disappointed the expectations of my Government, inasmuch as the Colombian tariff is especially favorable to imports from the United States, and contains liberal provisions of a nature to encourage and promote commercial relations between the two countries.

I am directed to specially call your attention to these points, which I shall illustrate by a few examples and remarks.

At page 82 of the last bulletin issued by the Bureau of the American Republics, purporting to set forth the foreign commerce of the nations of this continent, will be found a table showing the imports into Colombia of the United States, Great Britain, France, and Spain for the year 1887, to which I beg to refer. It is to be regretted that no similar statement of later date is given; but as it is only intended to establish relative or comparative results, the fact of this data being a few years old is a matter of but little importance.

On examining this table it will be seen that, as regards the agricultural staple products of this country, viz, breadstuffs, meat and dairy



produce, sugar, tobacco, and vegetables, the United States exported to Colombia to the value of \$1,505,709, while Great Britain, France, and Spain, taken collectively, only imported like articles to the value of \$26,595. Hence the United States have the monopoly of the foreign trade with Colombia in this description of produce, and consequently a reduction of the import duties on such articles would in no way benefit the commerce of this country, whereas it would disturb and be detrimental to Colombian interests.

In the table referred to appear other descriptions of imported merchandise which may be classed under the head of agricultural produce, viz, vegetable oils and wines, including spirits. Of the former produce the United States imported into Colombia \$14,326, while France introduced \$67,480. Wines and spirits were imported by the United States to the value of \$41,028, while the importations of French and Spanish origin amounted during the same period to \$945,557.

But it is likewise evident that a reduction of duties on these commodities would not be productive of any advantage to the American exporter. The vegetable oils manufactured in this country are the cotton seed and castor oil, which could not be employed as a substitute either for linseed oil as a menstruum for metallic paints, or for olive oil for culinary purposes, which constitute the French importations. So also with reference to alcoholic products. The wines and spirits of the United States, whatever the duties upon such articles might be, would neither in Colombia nor elsewhere take the place of the products of the French and Spanish vintages.

The preceding observations clearly establish that, as regards agricultural produce the growth of the United States, no reduction of import duties that might be made on such articles in Colombia would bring about an increased importation of the same, and such being the case, no advantage would accrue to this country from any reductions that might be effected of said duties. Under such circumstances action taken in the direction of lowering the import duties in Colombia on agricultural produce, with a view to benefit American interests, would not be followed by that result.

The free list of the tariff of Colombia, as regards articles of commerce, comprises timber and sawn lumber, wooden railway carriages and cars, frame buildings, and wooden houses. These are entirely American articles of import; hence, in the table often above referred to, wood and the manufactures of same, imported from the United States, appear for a value of \$457,519, while other countries figure only to the amount of \$79,152. On the free list are also included iron and steel rails, spikes, and other railway fixtures; iron and steel bridges, gas-work plant, tubes and lamps for public lighting, lightning conductors, building material, etc.

If these articles be not special fabrics of the United States they are at least of a nature which this country can supply in competition with any other. So, again referring to the table of comparative imports into Colombia, we find under the heading "Manufactures of iron and steel," that the United States imported articles valued at \$710,492, which amounts to twice as much as the collective imports of France and Spain, and to 30 per cent in excess of the importation of Great Britain under the same heading.

The free list of the tariff of Colombia is therefore particularly favorable to United States products, some of the most important of which besides, although not absolutely free, only pay a nominal duty; as, for instance, machinery. Thus a steam motor, for example, of from 50 to 100 horsepower, with steam generator and corresponding fixtures,

weighing, say, from 10 to 15 tons, the price of which would be in the factory from \$4,000 to \$7,000 dollars, would be subject upon entering into Colombia to a duty of from \$55 to \$72.50, United States currency. Another example: A private carriage, say, a two-wheel buggy, supposed to weigh 70 kilos, or about 150 pounds, would incur a duty upon being landed in Colombia of \$1.92, United States currency. A four-wheel leather-hood carriage, weighing about 450 pounds, would be assessed at \$6 import duty, which would be less than the duty on the leather, cloth, and trimmings if passed separately through the custom-house.

I have been directed, lastly, to call to your mind the liberal action taken by the Government of Colombia when, upon the completion of the railroad across the Isthmus of Panama, it declared the ports at both extremities of the line to be free ports, which was done for the benefit of interoceanic trade. Later on, at the earnest solicitations and endeavors of the Government of the United States, the vessels entering either of said ports were exempted from tonnage and other dues. For nearly forty years the commerce of the United States has enjoyed and continues to enjoy these advantages; and it is submitted that they deserve recognition and entitle the commerce of Colombia with the United States to the benefits and advantages that may be granted to that of any other nation.

The United States merchandise imported for consumption on the isthmus from the Atlantic and Pacific ports by way of Colon and Panama, respectively, represents more than 35 per cent of the total export trade to Colombia. If the trade in free goods through other ports of Colombia amounts to 5 per cent of the total export trade from this country, which may be assumed to be the case, then 40 per cent of the shipments from the United States to Colombia enters free of duty. It is submitted that this last-mentioned fact, taken in connection with what precedes, manifests, under an American point of view, a satisfactory position of the trade relations between the two countries.

Accept, etc.,

J. M. HURTADO.

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*Mr. Wharton to Señor Hurtado.*

DEPARTMENT OF STATE,

*Washington, March 7, 1892.*

SIR: Careful attention has been given to your note of the 25th ultimo, in which you reply at some length to the note which, by direction of the President, the Secretary of State had the honor to address you on January 7 last, conveying to you the contemplated action of the President in execution of the duty imposed upon him by virtue of the provisions of section 3 of the tariff law of October 1, 1890, and I beg to submit some observations as the result of the examination which has been given to your note.

You are under a misapprehension in supposing that the President of the United States was not aware of the fact that the Congress of Colombia would not convene until July next. He was fully informed of the circumstances related in your note connected with the sessions of that body; but he also understood that the President of Colombia was empowered by the Federal constitution to initiate and conduct negotiations with foreign Governments, and as early as June 3 of last year Secretary Blaine had the honor, acting under his instructions, to bring to your attention the liberal provisions of the Congress of the United



States in the law cited, and expressed the hope that you might be empowered to enter with him upon the consideration of the commercial relations between the two countries with a view to reaching an adjustment profitable alike to both upon the basis of that legislation. Being advised by you that you had communicated his note to your Government, and a considerable time having transpired without any further communication from you on the subject, actuated by an earnest desire to maintain with Colombia the most friendly and liberal commercial relations, the minister of the United States at Bogota was directed to approach the minister of foreign affairs and prudently to make known to him the friendly desire of the Government of the United States respecting commercial intercourse, and, if possible, induce him to agree upon some mutually satisfactory arrangement in the expectation that he would undertake to submit the same to the Colombian Congress at its next session for its consideration and ratification.

I am sorry, however, to have to state that our minister at Bogota reports that all his efforts in the direction indicated have been without success, and that there is no present prospect of an agreement on the subject. Other of the American Republics have been placed in the same situation as that referred to in your note, but in response to invitations similar to the one addressed to you on January 3, 1891, more than one of the Presidents of those Republics have given instructions to their ministers in this city to enter upon negotiations resulting in mutually beneficial commercial arrangements which are made contingent upon the ratification of the respective national Congresses at their next session. It is deeply regretted by the President that his invitation to the Government of Colombia has not been responded to in the same conciliatory spirit. It would give him great pleasure to further suspend action as to Colombia, under section 3 of the tariff act, if you were authorized and prepared to celebrate with this Government an equitable reciprocity arrangement which the executive power would undertake to submit and recommend to the Colombian Congress at its next session; but the President does not regard the measure for the general extension on the free list, which you state it is intended to recommend to Congress, as a proper response to the invitation which has been given you to negotiate a special arrangement based upon the mutual convenience of the two countries.

The table showing the imports into Colombia, to which you particularly directed attention, has been examined in connection with the tariff of Colombia and the trade statistics published by the United States. It is true that the agricultural products enumerated by you are imported mainly from the United States, but I can not agree with you that the lowering of duty on those products would not benefit American interests. It appears that the largest item of the imports rated by you is flour, which comes from the United States, and that it is burdened with a duty of 66 per cent. Lard, next in volume of agricultural products, is taxed 95 per cent; hams, 55 per cent; beef, 40 per cent; canned meats, 80 per cent; cheese, 55 per cent; butter, 48 per cent; bread and biscuit, an important import, 105 per cent; refined sugar, 30 per cent; petroleum, a large item, 150 per cent. Most assuredly if these heavy duties were taken off a much larger consumption of them would occur. When we turn from this list of tariff duties exacted from American products, and examine the tariff of the United States in the leading products of Colombia imported into this country we find a most notable contrast, as they are admitted absolutely free of duty.

I regret to have to say that my examination of the free list of Colom-



bia, to which you ask consideration, compared with the trade statistics, does not lead me to the same conclusions as are expressed by you. In the discussion of the free list you cite the item of "wood and manufactures of same" imported from the United States to the value of \$457,519; but upon analyzing the articles by reference to the detailed statistics I find that 60 per cent of that amount are charged with duties. It also appears that of the other free articles named by you in the same paragraph the amount imported from the United States aggregates a small sum in value. Your citation of "manufactures of iron and steel" imported from the United States to the value of \$710,492 seems to have little appropriateness in illustration of the Colombian free list, as much the larger portion of the articles embraced in the sum stated are taxed with considerable duties. My study of the free list has not brought to my notice any marked favor shown to the products of the United States. On the contrary, I find the tariff as a whole to be a serious impediment to the enlargement of our trade relations.

I have taken some pains to reply to the points presented in your note, in order that you may be assured of the friendly disposition of the President to take into consideration all the reasons which you have to advance to show that the tariff of Colombia is not reciprocally unequal and unreasonable. But there is one important aspect of the question which you have entirely omitted to mention, and which should have great weight in determining it. Upon referring to the statistics for the year ending June 30, 1890, I find that the total imports into the United States from Colombia amounted to \$3,575,253, and of this sum only \$4,659 paid duty.

In other words, practically all the products exported from Colombia to the United States are admitted free of duty. When we contrast this with the treatment extended to American products in Colombia the difference is painfully apparent. I do not lose sight of the free regulation on the Isthmus of Panama, but, after all due allowance is made for that trade, the absence of reciprocity of treatment is so marked as to require no comment. When to this is added the consideration that in all the nations of Europe almost all of the most important export products of Colombia are heavily taxed, you ought not to be surprised when I assure you that the reluctance of your Government to reciprocate in some degree the liberal treatment extended to Colombian commerce in the ports of the United States is a source of great disappointment to the President.

He earnestly hopes, however, that you will present this subject anew to your Government, and convey to it the assurance that he will be greatly gratified if the action which it may take will relieve him from the unpleasant duty pointed out in my note of January 7 last, imposed by the law of the Congress of the United States.

Accept, etc.,

WILLIAM F. WHARTON,  
Acting Secretary.

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*Señor Hurtado to Mr. Blaine.*

LEGATION OF COLOMBIA,  
Washington, March 12, 1892. (Received March 14.)

SIR: I have the honor to acknowledge receipt of your note of the 7th instant, in reply to mine of the 25th of the previous month, and beg leave to offer some remarks on the contents of your communication, in a sincere endeavor to reach some satisfactory result in the matter we have under consideration.

With reference to the first part of your note, in which you state that the President of the United States relied on the constitutional prerogative vested in the President of Colombia to initiate and conduct negotiations with foreign Governments for action in that direction, in response to the invitation addressed to me on the 3d January, 1891, I beg to observe that the communication referred to, and to which you also adverted in your former note of the 7th January, has not been received at this legation. But I do not suppose that this fact is of importance, presuming said communication to only contain the substance of what you stated to me in our interview of the 13th March, 1891, when you called my attention to the provisions of the third section of the tariff law of the 1st October, 1890, and suggested the desirability of my asking instructions from my Government to deal with that matter at the proper time. On the 21st of June then next following I had the honor to meet Gen. John W. Foster, acting on behalf of the State Department, to exchange ideas on the subject of the reciprocity proposals. I stated on that occasion that the Government of Colombia held that in virtue of the intimate friendly and exceptionally close relations established between the two Governments by the terms of the treaty of amity, commerce, and navigation entered into in 1846, the advantages accruing from which to the United States of America were supplemented by the freedom of the ports on either side of the Isthmus of Panama, and, later on, by the exemption from tonnage and other dues on vessels entering said ports, the commerce of Colombia was entitled to most of the privileges which the United States might concede to the trade of other nations, and especially to all favors and grants touching import duties on merchandise introduced into the United States under whatever conditions the concessions might be made.

It will be readily understood that, while holding such convictions, the Government of Colombia could not and can not initiate negotiations to acquire the privilege of importing coffee and hides free of duty, by giving a consideration therefor, in addition to that already conceded under the treaty for the enjoyment of the same privilege, without thereby waiving and parting with important treaty rights. To follow such a course would expose the President to the obloquy of Congress when the negotiation would be presented for the approval of the Legislature, which in all probability, would be withheld from it as the only means of preserving the existing treaty unimpaired.

It is unnecessary to examine just now whether or no the opinion held by the Government of Colombia be correct or not. This question is not at present under consideration, and there is no desire on my part to bring it forward. Reference has been made to it *ex necessitate* for the purpose only of explaining the influence it has had in preventing the invitation to enter into the proposed reciprocity arrangements in the form of a treaty from being accepted, and I sincerely hope that this explanation will remove the impression which, I regret, should have been formed by the President of the United States, to the effect that his overtures tending to the development of the trade between the two countries have not been received in a conciliatory spirit.

The President of Colombia, on the contrary, adheres to the policy having such an object in view, to the fullest extent not incompatible with the legitimate interests of Colombia, and is anxious to manifest, on this occasion, the value he places on the friendly and harmonious relations which happily exist between the two Governments and his desire that they should continue unimpaired. It is chiefly moved by these considerations that the Government of Colombia cheerfully entertains the reciprocity proposals made by the President of the



United States, and consequently feels that he should be allowed some discretion in the manner of giving tangible expression to these sentiments.

But let it be supposed that the cordial spirit in which the President of Colombia has met the overtures of that of the United States arose out of a sense of equity for benefits accruing to the trade of Colombia from certain liberal provisions of the tariff law of the United States, would it be indispensable, even if such were the case, that the return or acknowledgment of the benefit received should take the form of a treaty or convention? Would not the idea and the principle of reciprocity be better observed and carried out by legislative enactments on the part of Colombia of a like nature to those adopted in the matter by the United States and which it is intended to reciprocate?

To arrive at this mode of adjusting the pending question was the object aimed at in my note of the 25th of February, to the accomplishment of which I foresaw no other obstacle than the short time fixed by the President of the United States to reach a result; for a solution by the independent action of the Government of Colombia was indicated as acceptable in your note of the 7th January. You there say:

I am further directed by the President to inform you \* \* \* that unless on or before the 15th day of March next some satisfactory commercial arrangement is entered upon between the Government of the United States and the Government of Colombia, *or unless some action is taken by the latter Government whereby the unequal or unreasonable state of the trade relations between the two countries is removed*, the President will, on the day last named, issue his proclamation, etc.

I conveyed to you the assurance, direct from the President of Colombia, of his favorable disposition toward the proposed arrangements; of his earnest desire to follow such a course as would lead to an amicable, equitable, and mutually satisfactory result, and that, with this end in view, he would present to Congress, immediately after its organization, a bill to extend the free list of the Colombian custom-house tariff. This virtually constituted an acceptance of the second alternative in the issue presented by direction of the President, as set forth in the preceding extract from your note of 7th of January; and all that is asked to carry these assurances into effect is the time indispensable for their execution, which is no longer than would be required to arrive at any other mode of settlement of this question, for no arrangement could be completed before the meeting of next Congress.

Whatever may be thought of the plan conceived by the President of Colombia, as above set forth, allow me to assure you that it is prompted by a feeling of friendliness and deference for the Government of the United States; and it is therefore with deep regret that I perceive it is summarily rejected, without even adopting it as a basis of further discussion, which I believe would have been productive of good results.

I will now beg leave to offer a few remarks on the observations which you are pleased to make respecting that part of my note which had reference to imports into Colombia, and I shall endeavor to be as brief as possible, in order not to take up too much of your valuable time.

You have misunderstood me when you impute to me having implied that the total importations from the United States into Colombia of "wood and all manufactures of the same," also of all "iron and steel, and manufactures thereof," collectively valued at \$1,168,011, were introduced free of duty. It is obvious that such could not have been my meaning, for in the same part of my note, where I am represented as concurring in this error, I had carefully enumerated the few articles of wood and of iron and steel which form part of our free list; and it is not possible that I could have intended to imply that the value of



such of these as were imported into Colombia was represented by the value of the total importations of articles of wood, iron, and steel, in which the former were included and formed but a small part thereof.

The only place in my note wherein I have alluded to the value of the free goods imported from this country into Colombia will be found toward the conclusion of my communication. I there estimate the importation of free goods from the United States into Colombian ports (other than Colon and Panama) at 5 per cent of the total American import trade, or, say, at about \$200,000. Adding thereto about one-half of this sum for importations through ports of the Isthmus, the total amount of free goods imported into Colombia, as derived from any computation of mine, would be in the neighborhood of \$300,000 only. I make these remarks in an explanatory way and not in a spirit of argument.

This sum of \$300,000, as value of the total free-duty import, makes but a small showing; but be it remembered that, on the whole, 40 per cent of the American imports into Colombia pay no duty whatsoever. Hence, if there was no free list nor free ports in Colombia, and the total amount of the tax at present collected on American imports was distributed on and contributed by the total volume of imports, the duties levied under that condition of things would amount to only 60 per cent of the rates charged at present, which would be equivalent to a reduction of 40 per cent on the existing tariff.

You conclude your remarks on the subject of free goods by the following observation:

My study of the free list has not brought to my notice any marked favor shown to the products of the United States.

I must, therefore, again call your attention to the fact that the free list embraces an important class of articles, viz, lumber and timber, railway carriages and cars, frame buildings and wooden houses which, when destined to tropical countries, are required to chiefly consist of yellow or southern pine, and become therefore exclusive importations from this country. At the same time, there is no article of free importation into Colombia in which the United States could not compete with other nations. I am, therefore, of opinion that our free list favors United States products.

Immediately after the above quotation you add:

On the contrary, I find the tariff, as a whole, to be a serious impediment to the enlargement of our trade relations.

This may be said of most if not of all tariffs. We once carried on a flourishing and constantly increasing trade in tobacco with this country. Your tariff destroyed that trade by establishing a very high duty on the article. But we have no right to complain. Your Government is the sole arbiter as to the wisdom or necessity of maintaining a high tax on tobacco.

I am free to admit that the tariff of Colombia is a high tariff, and that it must consequently militate against the full development of our trade with foreign nations. But this has to be so; it is an unavoidable evil common to all South American countries, where the revenue is chiefly derived from import dues; and until such time as other systems of taxation be discovered and found efficient, so as to remove the burden which now weighs almost exclusively on imports, the evils of a high tariff must unfortunately be endured.

You observe that I have entirely omitted to mention in my previous note one important aspect of the question which should have great weight in determining it. This is, that while all Colombian produce is

admitted free of duty into this country, American goods are subject to a heavy tax when introduced into Colombia.

The object of my note of the 25th of last month was solely to propose a solution of the situation growing out of the provisions of the United States tariff law, by the cordial adherence of my Government to the policy of the United States in its endeavor to enlarge the trade between the two countries. That being the case, the consideration of the question under other aspects seemed to me not only premature but undesirable, as more likely to do harm than good, by possibly giving rise to irritating discussions, for, I apprehend, that we are not in perfect accord regarding the rights and obligations of our respective Governments in connection with the subject-matter. However, lest it appear that I am evading a point to which you seem to attach importance, I am constrained to offer a few remarks thereon.

The freedom from import duty on coffee, for instance, is not an advantage conceded to the foreign grower of that grain. In our coffee markets this staple is sold by the producer at one and the same price, whether it be purchased for exportation to the United States, where it enters free of duty, or for France, where it is heavily taxed on being landed. The reason of this is that the duty levied on the coffee does not fall on the exporter of the commodity, but is borne by the consumer of the article. Hence the provision of your tariff which makes coffee a free import accrues exclusively to the benefit of the people of this country, and I do not perceive the equity of demanding compensation therefor from the Government or people of coffee-producing countries.

What precedes would not only apply to cases where the United States might grant freedom of entry to articles produced or manufactured in this country, for in that event the foreign producer would be given the privilege of bringing his commodities (representing raw materials, capital, and labor) into competition with those of this country, giving him the benefit of a vast market, and for those advantages compensation may be justly demanded.

On the other hand, when a manufacturer in this country sells his wares he does not inquire, because it does not concern him, what disposition is going to be made of the goods sold. He has a price for them, and when this is paid him his interest in the articles sold ceases to exist.

When a parcel of goods is thus bought by the agent of a Colombian merchant it becomes Colombian property, and upon arrival of the goods at destination the property comes under jurisdiction of the Government of Colombia. Then and there a tax is levied on the importation in the exercise of a sovereign right claimed by every nation and recognized by public law. The tax is in the first instance disbursed by the Colombian importer, who recoups himself of his outlay when he sells the goods to the Colombian consumer. I submit that these fiscal measures, not being injurious or oppressive to American interests, there exists no cause of grievance against Colombia for adopting them.

In the closing paragraph of your note you do me the honor to inform me that the President hopes I will present this subject anew to my Government, and convey to it the assurance that he will be greatly gratified if the action which it may take will relieve him of the unpleasant duty, pointed out in your note of the 7th of last January, imposed by the law of the Congress of the United States.

It will always afford me pleasure, and indeed it is my duty, to forward to my Government any and all recommendations or suggestions which the President may be pleased to make, as I do in the present



case. But I beg leave to observe that if the 15th of the present month is to be retained (and you do not intimate anything to the contrary) as the date on which the President will issue his proclamation suspending the free importation of coffee and hides of Colombian origin, it is hopeless to rely on communications from Bogota for any change of situation before said date.

I have (yesterday) received written communications from Bogota acknowledging the receipt of my note of 8th January last transmitting copy of yours of the 7th of same month.

I am directed therein again to express the regret with which the decision of the President of the United States respecting the Colombian tariff and the intimation contained in your said note have been received. I am further directed, however, to reiterate to you, for the information of the President, the assurance, in the most positive manner, that concurring in the spirit and object aimed at in section 3 of the United States tariff law, namely, the development of commercial intercourse, the President of Colombia will use all influence at his command to obtain from Congress at its next meeting such an extension of the list of nondutiable merchandise as will justify any action which the President may be pleased to take postponing until the meeting of Congress at Bogota in July next the suspension of the free entry into this country of coffee and hides of Colombian origin.

Accept, etc.,

J. M. HURTADO.

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*Mr. Wharton to Señor Hurtado.*

DEPARTMENT OF STATE,  
Washington, March 14, 1892.

SIR: Your note of the 12th instant was not received at the Department until to-day, and very little opportunity is therefore afforded me to make any extended reply to the many important questions so ably discussed by you in view of the date fixed by the President for his action under section 3 of the tariff law, as advised in my note of January 7 last.

It would be to me a source of the deepest regret should you or your Government think the Government of the United States had in any way been wanting in friendly forbearance or lacking in a sincere spirit of conciliation and generous commercial reciprocity in the negotiations which it has sought to set on foot both with you, as the accredited representative of Colombia in this city, and through the United States minister at Bogota with the minister of foreign affairs of your own Government. But it is to be borne in mind that nearly eighteen months have passed since the Congress of the United States made the friendly offer to which the attention of your Government has been called, which action was expressly declared to be "with a view to secure reciprocal trade with countries producing" sugar, coffee, and the other articles named; and a year has transpired since you were specially invited to enter upon negotiations with a view to the adjustment of the commercial relations between the United States and Colombia on a permanent basis of reciprocity profitable alike to both.

The delay which has occurred has not been occasioned by this Government, as it has always been ready and anxious to take up the subject, and it has been actuated by a desire to come to an amicable commercial arrangement which would be mutually advantageous to both countries. In the few and brief interviews which you have held at the Department you have never submitted any proposition



which could be regarded as within the spirit of the act of Congress above cited, but you have rather manifested a desire to sustain positions respecting international law which were in direct opposition to the principle set forth in said act and uniformly maintained by this Government.

In your note of 25th ultimo, which was the first communication received from you treating of the legislation of Congress, you set forth the reasons why your Government should not be expected to respond to said legislation in the manner indicated by Congress, and the only suggestion which your note contains which could be understood to be a proposition on your part was an indication of the intention of the President of Colombia to make certain recommendations to their National Congress for an extension of the free list, but even that was not accompanied by a detailed statement of the changes contemplated and no offer was made to consult or agree with this Government as to changes in your tariff which would result in special benefit to American products.

Your note of the 12th instant contains an able discussion of certain economic principles as to taxation and a further insistence, with added reasons, upon the position heretofore maintained by you that your Government might not be called upon to take action in the direction and by the method indicated by the Congress of the United States; but there is nothing in your note which could be accepted by the President as such a response to the invitation of Congress as would justify him, under the law, in suspending the action indicated in my note of 7th January last.

I can only repeat my disappointment that you have not been authorized or seen fit to submit to me some sufficiently definite proposition which might be regarded as the initiative and basis of negotiations; and I again renew to you, and through you to your Government, an earnest invitation to enter with me upon a consideration of the subject of the commercial relations between the two Republics with a view to reaching a reciprocity arrangement profitable alike to both. I firmly believe that such an arrangement is entirely practicable and that the interests of both countries counsel such a result; and I am pleased to have the authority of the President to assure you, that should we be able to reach an arrangement to be submitted by the President of Colombia to the National Congress at its next session, he would suspend by proclamation the effects of section 3 of the tariff law until the National Congress shall have the opportunity to act upon the arrangement agreed upon.

I beg you to communicate to your Government this assurance and to repeat to it the earnest desire of this Government to establish the commercial relations of the two countries on a basis of mutual advantage and just reciprocity.

Accept, etc.,

WILLIAM F. WHARTON,  
*Acting Secretary.*

*Señor Hurtado to Mr. Blaine.*

LEGATION OF COLOMBIA,  
*Washington, March 16, 1892. (Received March 17.)*

SIR: I have the honor to acknowledge receipt of your note of the 14th instant, which reached me yesterday afternoon, in time to forward a copy thereof by to-day's mail from New York to the minister of foreign affairs at Bogotá, whose instructions I shall await respecting the matter contained in your said note.

Accept, etc.,

J. M. HURTADO.

*Señor Hurtado to Mr. Blaine.*

LEGATION OF COLOMBIA,  
Washington, March 21, 1892. (Received March 21.)

SIR: Although I inferred from the contents of your note of the 14th instant that the President would issue his proclamation on the day next then following, imposing import duties on certain products of Colombia, as intimated in your note of the 7th of January last; yet I have no notice, or proof, of an official character, establishing the fact that the said proclamation has been issued. May I ask you, therefore, to be good enough to furnish me with information on this point, and if not inconvenient, also a copy of the proclamation?

Accept, etc.,

J. M. HURTADO.

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*Mr. Wharton to Señor Hurtado.*

DEPARTMENT OF STATE,  
Washington, March 22, 1892.

SIR: I have the honor to acknowledge the receipt of your note of the 21st instant, and to inclose herewith a half-dozen copies of the President's proclamation of the 15th instant, suspending the free admission into the United States of certain articles the production of the Republic of Colombia.

The brief delay in making formal communication of the President's action has been occasioned in order to permit the proclamation to be printed.

Accept, etc.,

WILLIAM F. WHARTON,  
*Acting Secretary.*

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[A proclamation suspending the free admission into the United States of sugar, molasses, coffee, tea, and hides, the production of Colombia.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

#### A PROCLAMATION.

Whereas in section 3 of an act passed by the Congress of the United States entitled "An act to reduce the revenue and equalize duties on imports, and for other purposes," approved October 1, 1890, it was provided as follows:

"That with a view to secure reciprocal trade with countries producing the following articles, and for this purpose, on and after the first day of January, eighteen hundred and ninety-two, whenever, and so often as the President shall be satisfied that the Government of any country producing and exporting sugars, molasses, coffee, tea, and hides, raw and uncured, or any of such articles, imposes duties or other exactions upon the agricultural or other products of the United States, which in view of the free introduction of such sugar, molasses, coffee, tea, and hides into the United States he may deem to be reciprocally unequal and unreasonable, he shall have the power and it shall be his duty to suspend, by proclamation to that effect, the provisions of this act relating to the free introduction of such sugar, molasses, coffee, tea, and hides, the production of such country, for such time as he shall deem just, and in such case and during such suspension duties shall be levied, collected, and paid upon sugar, molasses, coffee, tea, and hides, the product of or exported from such designated country" the duties hereinafter set forth:

And whereas it has been established to my satisfaction, and I find the fact to be, that the Government of Colombia does impose duties or other exactions upon the agricultural and other products of the United States, which in view of the free



introduction of such sugars, molasses, coffee, tea, and hides into the United States, in accordance with the provisions of said act, I deem to be reciprocally unequal and unreasonable:

Now, therefore, I, Benjamin Harrison, President of the United States of America, by virtue of the authority vested in me by section 3 of said act, by which it is made my duty to take action, do hereby declare and proclaim that the provisions of said act relating to the free introduction of sugars, molasses, coffee, tea, and hides, the production of Colombia, shall be suspended from and after this fifteenth day of March, 1892, and until such time as said unequal and unreasonable duties and exactions are removed by Colombia and public notice of that fact given by the President of the United States, and I do hereby proclaim that on and after this fifteenth day of March, 1892, there will be levied, collected, and paid upon sugars, molasses, coffee, tea, and hides, the product of or exported from Colombia, during such suspension, duties as provided by said act as follows:

All sugars not above number thirteen Dutch standard in color shall pay duty on their polariscopic tests as follows, namely:

All sugars not above number thirteen Dutch standard in color, all tank bottoms, sirups of cane juice or of beet juice, melada, concentrated melada, concrete and concentrated molasses, testing by the polariscope not above seventy-five degrees, seven-tenths of one cent per pound; and for every additional degree or fraction of a degree shown by the polariscopic test, two hundredths of one cent per pound additional.

All sugars above number thirteen Dutch standard in color shall be classified by the Dutch standard of color and pay duty as follows, namely: All sugar above number thirteen and not above number sixteen Dutch standard of color, one and three-eighths cents per pound.

All sugar above number sixteen and not above number twenty Dutch standard of color, one and five-eighths cents per pound.

All sugars above number twenty Dutch standard of color, two cents per pound.

Molasses testing above fifty-six degrees, four cents per gallon.

Sugar drainings and sugar sweepings shall be subject to duty either as molasses or sugar, as the case may be, according to polariscopic test.

On coffee, three cents per pound.

On tea, ten cents per pound.

Hides, raw or uncured, whether dry, salted, or pickled, Angora goat skins, raw, without the wool, unmanufactured asses' skins, raw or unmanufactured, and skins, except sheepskins, with the wool on, one and one-half cents per pound.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this fifteenth day of March, one thousand eight hundred and ninety-two, and of the independence of the United States of America the one hundred and sixteenth.

[SEAL.]

BENJ. HARRISON.

By the President:

WILLIAM F. WHARTON,  
Acting Secretary of State.

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*Señor Hurtado to Mr. Blaine.*

LEGATION OF COLOMBIA,  
Washington, March 23, 1892. (Received March 23.)

SIR: I have to-day had the honor to receive your note of yesterday, together with several printed copies of the proclamation issued by the President of the United States of America on the 15th instant, imposing, from and after that day, import duties to be levied, collected, and paid upon sugars, molasses, coffee, tea, and hides, the produce of, or exported from, Colombia, on their introduction into the United States.

The imposition of import duties by the Government of the United States on articles of Colombian produce, while the like articles from other countries are admitted free from such duty, establishes a discrimination against Colombian produce in favor of goods of like character imported from other countries, which my Government holds to be contrary to the spirit and express stipulations of the treaty of



1846, still in force. It therefore becomes my duty to request you to take notice that all rights of Colombia under said treaty, directly or indirectly bearing upon the provisions of the above-referred to proclamation, issued on the 15th instant, are and remain reserved, to be urged, if deemed expedient, at any future time or times.

Accept, etc.

J. M. HURTADO.

*Señor Hurtado to Mr. Blaine.*

LEGATION OF COLOMBIA,  
Washington, March 25, 1892. (Received March 26.)

SIR: Viewing the payment of import duties, to which hides and coffee, the produce of Colombia, are subjected upon their introduction into the United States as an existing fact, on the justice of which it is neither my purpose nor intention to touch in the present communication, I beg to observe that there are many nations which gratuitously enjoy the privilege of importing into the United States of America, hides and coffee, the produce of the respective country, under section 2, of the law of 1st October, 1890, and therefore exempt from duty. The Argentine Republic, Uruguay, Mexico, the Netherland Colonies, Chile, and Peru, may be taken as examples of the nations referred to. To these, the provisions of the second section of the tariff law freely give the privilege of introducing into this country, exempt from import duty, hides and coffee of their own production.

It is, therefore, obvious that particular favors in respect to commerce are freely granted by the United States of America to certain nations; and, consequently, that one of the two prerequisite conditions laid down in article 2 of the existing treaty of 1846, either of which conditions being fulfilled is sufficient to give effect to the respective stipulation in said article, has been called into existence. Under these circumstances I am directed to represent to the Government of the United States that the Government of Colombia maintains that the favor which is gratuitously and freely granted to other nations, as above set forth, should immediately become common to Colombia, who can not be deprived the enjoyment thereof without the violation of express treaty stipulations.

Trusting you will concur in the correctness and justness of these conclusions my Government further instructs me to request that measures may be taken that will render operative the right accruing to Colombia under the above-stated condition of things.

Accept, etc.,

J. M. HURTADO.

*Señor Hurtado to Mr. Blaine.*

LEGATION OF COLOMBIA,  
Washington, May 11, 1892. (Received May 14.)

SIR: I beg leave to offer some observations on the report of Hon. William F. Wharton, Acting Secretary of State (*vide* Ex. Doc. No. 68, Fifty-second Congress, first session), to whom was referred the resolution of the Senate of the 21st of March last, wherein the President was

requested, if not incompatible with public interests, to communicate to the Senate the items of taxation under the laws of Colombia upon which he had found and proclaimed that the tariff laws of Colombia are reciprocally unequal to the United States.

I am aware that, although documents such as the report above alluded to are often printed and freely circulated, they are, nevertheless, of a private character and not subject to be commented upon outside of Congress, to whom they are addressed. Nor do I intend to transgress this rule. The remarks which I have the honor to submit to you have reference merely to matters of fact, and I venture to present them, by way of information only, with the hope that they may be conducive to a satisfactory issue in the important question connected with the matter of the report.

For the sake of clearness in the course of these remarks I shall confine myself in the body of this note to the mere statement of facts; the demonstration of which will be found in the accompanying memoranda to which I shall refer, as occasion may require.

The report states:

It will further be seen that of the total importation in 1891, of the products \* \* \* of the United States imported into Colombia, it may be safely estimated, that at least 80 per cent were charged with duties.

It is difficult to estimate the exact proportion of American goods that enter free into Colombia; but those exported to the free ports of Panama and Colon from New York and San Francisco alone, constituted in 1891, 28 per cent of the total imports from the United States into Colombia. If to that proportion of free imports were added the quota due to exportations to the Isthmus from Boston, Philadelphia, Baltimore, and New Orleans, and if goods, on the free list, shipped from the United States to the custom-house ports were also taken into account, this proportion, viz, 28 per cent would be considerably increased.

The estimate 20 per cent laid down in the report, is evidently much too low (vide memoranda, Sec. I).

The report of Acting Secretary Wharton, further says:

In the province comprising the Isthmus of Panama, a more liberal tariff with a much larger free list than that of the general tariff is in force; but as the statistics are not separable, the exact amount of our export trade with the Isthmus, can not be ascertained. This condition has existed for many years past.

The ports of the Isthmus of Panama were made free ports in 1856 and so continued to be until 1891, when a few articles were subjected to import duties. Among these, the only American imports on which the tax falls, are salt beef and pork which pay  $1\frac{1}{2}$  cents per pound; whisky and bitters paying 3 cents per pound. All other American imports are free (vide memoranda, Sec. II).

The report farther states:

The statistics hereto appended show that as a consequence, in a great measure, of these tariffs, the balance of trade is now and for some years past has been largely against the United States. For instance, for the year ending June 30, 1891 \* \* \* while imports from Colombia aggregated \$4,765,354 our exports thereto were \$3,182,644.

It is submitted that if the high duties imposed by the Colombian tariff make the balance of trade with the United States to be in favor of Colombia, as stated in the report, then the same result should follow respecting the trade of other nations with Colombia; for the tariff contains no discriminations. Its provisions are one and the same for all nations. But the balance of trade between Colombia and foreign countries is in every case against Colombia, the trade with the



United States included; and, contrary to the statement contained in the report, has been so for several years past. (V. Mem., Sec. —.) If any conclusion can be drawn from the premises laid down in the report, it would follow that the tariff of Colombia, far from being high, requires to be increased for the protection and equalization of the commerce of that country.

The sum stated in the report as the amount of imports from Colombia for the year ending with June, 1891, viz, \$4,765,354, is much in excess of the correct value of the imports. This arises from the erroneous valuation put upon the Colombian peso (in which the invoice accompanying each importation is framed) at the time of converting the footing of the invoice into United States currency.

The error alluded to consists in the assumption at the U. S. custom-houses that the said invoices are made out in standard silver *pesos* of Colombia, a coin no longer in existence or used in account; whereas the invoices are made out in irredeemable paper *pesos* (the currency of the country since 1886), the value of which is, and has been for some time past, \$0.50 United States gold (V. Mem., Sec. III). Making the proper corrections the amount \$4,765,354, given by the custom-houses of the United States as the value of the imports from Colombia in 1891, will be reduced to \$3,035,532, which is less by \$147,112 than the value of the exports from the United States (V. Mem., S. III).

Appended to the report (p. 5 of the printed document) is a table purporting to show the duties levied in Colombia on the chief articles of export from the United States.

These duties expressed in United States currency are much in excess of those actually imposed by the Colombian tariff, and there is not a single case in which the excess is less than from 40 to 50 per cent above the actual duty. In many instances it is considerably greater, for instance:

On plows and machinery for agriculture the duty is made to appear in excess of the tariff duty by 200 per cent.

On chemicals, the duty laid down in the table on saltpeter, stearic and sulphuric acids, is in excess of the tariff duty 800 per cent, while on soda salts, caustic soda, and potassa subcarbonates, etc., the excess amounts to 1,650 per cent.

On iron building materials, galvanized iron for roofs, ditto doors and windows, railings, nails, tacks, saws, and tools generally, the excess given by the table over the tariff duty is 500 per cent.

These are not the only cases of similar exaggerations occurring in the table, which makes no allusion whatsoever to articles on the free list.

Among the last items found in the table under examination appears the following: "Vessels sold to foreigners, per pound, \$0.003."

There is no duty on vessels excepting such as are intended for fluvial navigation on the waters of the Republic; and, as a rule, these are invariably exempted from the tax under special concessions by way of encouragement to such undertakings. At all events, no discrimination is made respecting the duty on this or any other article in Colombia bearing on the nationality of the owner or importer.

At the foot of the table is found the following note:

The duties above stated do not include port and other charges, being only the import duties levied by the National Government.

Port dues and other charges are no doubt a proper subject for consideration when the commercial relations between two countries are being examined under an economic point of view. In this connection



it would have been advantageous to Colombia, the object of the examination being had in view, had the report stated that practically the port dues and other charges on vessels entering and leaving Colombian ports are nominal—a condition so liberal that I believe finds no parallel in any other country. The total movement of incoming tonnage in the ports of Colombia during the year 1889 amounted to over 1,600,000 registered tons. The sums collected thereon for port, light, and other charges aggregated 14,219 pesos, equivalent to \$7,110 United States currency, or say about \$4.45 per vessel of 1,000 tons register. The larger part of this small charge was for light dues.

I have, etc.,

J. M. HURTADO.

*Memoranda accompanying Mr. Hurtado's note of May 11, 1892, to the honorable the Secretary of State.*

### I.

The shipments of merchandise from the United States to the free ports of the Isthmus of Panama during the year ending June 30, 1891, as far as can be ascertained, were as follows:

(a) From New York to Colon .....	\$1,059,181
(b) Coal .....	103,745
(b) Lumber .....	21,344
(c) From San Francisco to Panama .....	98,542
(b) To Bocas del Toro direct .....	37,904
(d) From Boston, Philadelphia, Baltimore, and New Orleans .....	
Total .....	1,320,716

The above sum of \$1,320,716 constitutes 28 per cent of the total exports of the United States to Colombia for the year 1891. This proportion would be increased if the value of shipments from Boston, Philadelphia, etc., to the free ports were taken into account. It is therefore shown that the importations free of duty into the isthmus alone, without taking into consideration the goods admitted free through the custom-house ports of Colombia, are of themselves sufficient to considerably reduce the percentage of United States products stated in the report to be charged with duty upon entering into Colombia.

### II.

See Consul Sims' report (Consular Report No. 126, for March 1891, pp. 453, 454) as to articles made dutiable on being landed at the port of Colon. The duties are wrongly estimated. For instance, the duty on salt beef and pork is 5 cents (Colombian currency) per kilogram ( $2\frac{1}{2}$  pounds.) Consul Sims gives the duty at 5 cents (United States currency?) per pound. The exact duty in United States currency is  $1\frac{1}{2}$  cents per pound.

### III.

The invoices accompanying shipments of merchandise from foreign countries to the United States required to be presented at the custom-house of the port of landing are necessarily made out in the money of the country whence the exportation takes place. Such is the case with all shipments from Colombia, and the said invoices are made out in Colombian money, which, since 1886, consists of an irredeemable paper currency of considerable less value than the standard silver peso. The peso, which was established in 1848, as the legal-tender unit of value, contained 25

(a) Reported by Consul-General Calderon.

(b) Report of the inspector of the port of Colon. These shipments refer to the calendar year 1891.

(c) U. S. Bureau of Statistics.

(d) Not known.

grams weight of silver alloy 900-1,000 fine, has long ago ceased to exist in circulation or to be used in account. In Colombia all transactions have been carried on, since 1886, in paper currency, which is legal tender for any amount and invoices like all other statements, respecting money matters, refer to that currency.

The invoices alluded to, can not therefore be correctly dealt with after the manner from time to time proclaimed by the Treasury Department, for estimating the value of the respective imports in United States money of account, viz, the gold dollar. This system assumes, that the foreign money of account is represented by a gold or silver unit, the intrinsic value of which has been previously ascertained by the U. S. mint and its relation to United States money determined. When, as in the case of Colombia, the foreign money has only a fiduciary value, it becomes necessary to find out, by other means, what that value may be and there is no other or better method to reach this result than by taking the equivalent exchange as the expression of that value.

The rate of exchange between Colombia and the United States has fluctuated within very narrow limits and 100 per cent premium represents a fair average, that is to say, Colombian pesos 200 equal to 100 United States gold, or pesos 1=50 cents, United States currency. This has been the ratio adopted by the Minister of Finance at Bogota to compare the aggregate of imports into, and exports from, Colombia. (V. report to Congress of 1890. Also Minister Abbott in consular report No. 109).

At page 6 of the printed report is found a table of exports from the United States to Colombia and imports from Colombia to the United States between the years 1876 and 1891, inclusive.

Taking the last six years, during which paper currency has been the legal tender in Colombia, viz, from 1886 to 1891, it will be found that exports from the United States aggregate \$26,208,767 and imports \$23,957,258.

But this last sum embodies an error arising from the rates at which the *peso* in the custom-house invoices has been converted into United States gold.

The values of the Colombian silver *peso* proclaimed by the Treasury Department on the 1st of January, 1886 to 1891, have been, respectively, as follows: \$0.771, \$0.727, \$0.699, \$0.680, \$0.698, \$0.771, which gives an average of \$0.721.

Now, between this average, \$0.721, and the exchange rate, \$0.500, there is a difference of \$0.221, which represents the excess of the value given to imports over their real value, or say 30-6 per cent.

Deducting therefore from \$23,957,258, 30 per cent (\$7,187,177), the real value of imports (\$16,770,081) would be obtained.

But this last amount also contains an error, owing to the fact that in the departments of Santander and Panama the Government paper money is not current. There is in these parts of the Republic a money of account, consisting of a *peso*  $\frac{83}{100}$  fine, which only exists in its subdivisions, viz, halves, fifths, and tenths of the dollar. These are the remains of the former silver currency, the fractional parts of which were coined of the above stated fineness, following the measure adopted by the Latin Union in 1866, in order to impart toughness and give durability to fractional coins, by introducing a larger proportion of copper in the alloy.

The coin, 0-835 fine, or fractional *peso*, is intrinsically worth 7-2 per cent less than the standard hard silver *peso*, 0-900 fine; and where the latter has been estimated as in the average above established at \$0.721, the U. S. mint process would have valued the fractional *peso* at \$0.6691, United States currency.

The exchange between both Cúcuta and Colon with the United States, is, as quoted in these remarks, 50 per cent premium, say 150 pesos=\$100 United States currency, equivalent to *peso* 1=\$0.6666. Practically the same value given above.

Minister Abbott has made the reduction into United States currency of the exports of Colombia for 1888, in a manner similar to that followed in the present case (Vide-Consular Reports, No. 109, p. 356), but has neglected to take into account the differences of value between the hard and fractional *peso*.

Minister Abbott finds from official data that, of the exports through the custom-house of Cúcuta, two-thirds valued for 1888 at pesos 976,678 was reported in pesos, and the remaining one-third in paper. Assuming that this valuation followed the goods to destination, and furthermore that all goods so priced were exported to the United States, it will be found that the correction to introduce in the aggregate exports to this country, above computed at \$16,770,081, is to add one-sixth of the value of the merchandise exported through Cúcuta. The same course should be followed respecting imports from the isthmus.

Estimating the two-thirds of Cúcuta exports at 1,000,000 pesos yearly, and the exports from the department of Panama at 750,000 pesos (See Report of the inspector of the port of Colon), of which say two-thirds come to this country; the amount on which the correction would fall would be pesos 1,500,000 yearly, or pesos 9,000,000 for six years, the sixth part of which amounts to 1,500,000 which is to be added to the aggregate imports as above estimated from 1886 to 1891, making a total of 18,270,031 as the correct value of imports from Colombia to the United States.

## RECAPITULATING.

Imports estimated by the U. S. custom-house on the basis of hard silver peso from 1886 to 1891.....	\$23,957, 258	
Less 30 per cent for reduction to paper currency basis.....	7, 187, 177	
Corrected imports.....		16, 770, 081
Two-thirds exports, Cucuta.....	\$1, 000, 000	
Two-thirds exports, Panama.....	500, 000	
Yearly.....	1, 500, 000	
For six years.....	9, 000, 000	
One sixth to be added.....		1, 500, 000
		18, 270, 081
Balance of trade.....		7, 938, 686
Exports from the United States.....	26, 208, 767	
Average yearly balance of trade in favor of the United States.....	1, 323, 114	

## IV.

When the duty on an article in the Colombian tariff is 1 cent of peso, the duty on same per pound avoirdupois in United States currency will be:

Pounds avoirdupois, 2. 205 = 1 kilogram.	
Kilograms, 1 = 1 cent peso.	
Cents peso, 2 = 1 cent United States currency.	

Hence,  $\frac{1,000 \times 1 \times 1}{2,205 \times 1 \times 2} = 0.227$  cents United States currency, or \$0.00227 duty per pound avoirdupois.

The table appended to report, p. 5, states:

Agricultural implements:	
Duty in United States currency per pound, according to report.....	\$0. 0170
According to tariff:	
Plows and agricultural machinery $2\frac{1}{2}$ cents (duty per pound, $2\frac{1}{2}$ by \$0. 00227).....	0. 0057
Excess.....	\$0. 0113

Equivalent to 200 per cent over and above the tariff duty.

The table states:

Chemicals, drugs, etc.:	
Duty in United States currency per pound.....	\$0. 100
According to tariff:	
Duty on saltpeter, stearic, and sulphuric acids, 5 cents Colombian peso per kilogram; per pound, 5 by \$0.00227.....	0. 011
Excess.....	0. 089

Equivalent to 800 per cent over and above the tariff duty.

Chemicals, drugs, etc.:	
Duty in United States currency per pound.....	\$0. 100
According to tariff:	
Duty on soda salts, caustic soda, and potassa, subcarbonates, etc., $2\frac{1}{2}$ cents per pound, $2\frac{1}{2}$ by \$0.00227.....	0. 0057
Excess.....	0. 0913

Equivalent to 1.655 per cent over and above the actual duty.

Iron and steel (manufactures of)—

Under this head the table omits to mention the numerous articles of this class on the free list, and puts the lowest duty at, per pound.....	\$0. 067
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According to tariff—

Galvanized iron for roofs, iron buildings, nails and tack, hinges, saws, and tools generally, duty .05 Colombian peso per pound, 5 by 0.00227.....	0. 011
Excess.....	0. 056

Equivalent to 500 per cent over and above the actual duty.



*Señor Hurtado to Mr. Blaine.*

LEGATION OF COLOMBIA,  
*Washington, May 18, 1892. (Received May 19.)*

SIR: In compliance with instructions received from my Government I had the honor to address you a communication on the 25th of last March requesting that, in observance of the second article of the existing treaty between Colombia and the United States of America, the privilege of importing coffee and hides into this country free of duty, gratuitously granted to and enjoyed by several nations under section 2 of the tariff law, should immediately be made common to Colombia.

I beg leave to state that I have not yet been favored with a reply to my said communication, and I have been directed to ask that you will be good enough to give your earliest convenient attention to the matter which forms the subject of the above-mentioned note.

In withholding from Colombian produce the privilege I have alluded to considerable inconvenience and loss are being caused to our merchants engaged in trade with the United States. American citizens carrying on business with Colombia must suffer from the same cause and in a likemanner. The trade between the two countries has already decreased to a great extent subsequently to and in consequence of the imposition of differential duties on the chief commodities imported from Colombia into the United States, and if the present condition of things be allowed to continue that trade will soon be completely ruined.

This position of affairs, which causes deep concern to the Government of Colombia, and to which that of the United States can not remain indifferent, calls for a prompt compliance with the just demand contained in my note of the 25th of last March as the only proper way to remedy the evils and guard against the danger I have pointed out.

Besides, the demand set forth in the note often above referred to is made as of right. It is preferred not only as based on sound policy but as necessitated for the fulfillment of certain conditions of the treaty between the two countries, which the contracting parties pledged their faith "to religiously observe in their relations with each other."

Accept, etc.,

J. M. HURTADO.

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*Mr. Blaine to Señor Hurtado.*

DEPARTMENT OF STATE,  
*Washington, May 31, 1892.*

SIR: I have had the honor to receive your notes of March 25 and May 18 last respecting the action of the President under the tariff law of October 1, 1890, in the imposition of duties on hides and coffee, the product of Colombia, on their importation into the United States.

I can only repeat what has been stated to you verbally on more than one occasion, that it was a source of the deepest regret on the part of the President that he felt constrained, by the requirements of section 3 of the law above cited, to issue his proclamation of March 15 last, and which has occasioned your note to which I now reply.

The Congress of the United States enacted the provisions referred to "with a view to secure reciprocal trade" and to place our commercial relations with the countries concerned on a basis of equal and reasonable reciprocity; and it imposed upon the President a duty which he sought to discharge by causing negotiations to be promptly opened, first, between this Department and yourself, and afterwards between the minister of the United States at Bogota and the minister for foreign affairs, for the attainment of some mutually satisfactory and advantageous reciprocity agreement which would be a substantial compliance with the expressed will of the Congress of the United States. But in the year or more which elapsed after the initiation of these negotiations, and notwithstanding the earnest efforts of the representatives of the United States, it was not possible to obtain from your Government any proposition whatever which could be regarded as in any respect responsive to the liberal provisions of the Congress of the United States. Under these circumstances, the President deemed that he had no alternative but to take the action called for by the law.

The President directs me to say that he does not regard this law of Congress, nor his action under it, as in violation of Article II of the treaty of 1846, referred to by you. The law cited applies the same treatment to all countries whose tariffs are found by the President to be unequal and unreasonable. Referring to the countries named in your note of March 25, it may be stated that the negotiations so far conducted with them have not been attended with the same unsatisfactory results which have marked our efforts to reach an agreement with Colombia, and in none of them are the conditions of commerce and of the tariff so unfavorable for the United States. Without indicating what action may be taken respecting them, when negotiations have been completely terminated, the treatment which may be extended to them can not be invoked in favor of Colombia until its trade and tariff conditions with the United States shall have been materially modified.

The Government of the United States has always sought to cultivate with your country, Mr. Minister, the most intimate and cordial commercial and political relations, and it has been to me a cause of profound regret that, by the inaction of your Government, the President was constrained to issue the proclamation of March 15. I can assure you with entire sincerity, and beg you to communicate this assurance to your Government, that the President will cheerfully withdraw that proclamation whenever Colombia shall afford him reasonable occasion to do so.

I have purposely delayed responding to your note of March 25 in the hope that you would present to me some proposition which could be accepted as an equitable reciprocity for the free access to our markets which is afforded by the tariff laws of the United States to the products of Colombia. In fact, I have been notified by the minister of the United States resident at Bogota that he has been advised by your Government that it entertained such a purpose, and that you would be instructed to reopen the negotiations for a reciprocity arrangement, with the belief on the part of your Government that an early arrangement could be reached. I shall be greatly gratified if you may be authorized to take such a step, and I can assure you in advance of the most friendly consideration to any proposition to that end which you may submit.

Accept, etc.,

JAMES G. BLAINE.



*Señor Hurtado to Mr. Foster.*

LEGATION OF COLOMBIA,  
Washington, July 5, 1892. (Received July 5.)

SIR: I have had the honor to receive a note from your predecessor in office, Hon. James G. Blaine, dated the 31st May, in which I regret to find that although the receipt of my communications of the 25th March and 18th May last past, is acknowledged, no consideration has been given to the subject of their contents.

You will find by referring to my said communications that I called attention to the fact: (1) That the Government of the United States of America has granted to certain nations the privilege of importing into this country coffee and hides of their production, free of duty; and (2) that the concession has been gratuitously made. I remarked that the grant of those favors freely bestowed had called into existence the prerequisites to put in motion the provisions of article 2 of the treaty in force between Colombia and the United States of America, in virtue of which favors gratuitously granted to other nations by either contracting party become immediately common to the other; and I requested that in fulfillment of the treaty, measures might be taken by your Government to render the stipulation operative.

The proposition thus set forth and presented to your Department for action thereon by your Government has been entirely lost sight of in the said note of May 31. The subject, under the aspect I had the honor to present it, is not even alluded to; nor will it be found that the statements and allegations put forth in Mr. Blaine's note are relative to the points to which I requested attention.

The examination and consideration of the proposition I advanced and of the conclusions it embodies resolve themselves into the inquiry whether the conditions I pointed out actually exist, and whether, under a treaty containing "the most favored nation clause," the privileges gratuitously granted by one of the contracting parties to a third nation become common to the other contracting party.

It is hardly conceivable that anything outside of the scope of these inquiries could be pertinent in answer to my note; and I submit that neither the object which the Congress of the United States had in view when enacting the third section of the tariff law, nor the duties incumbent on the President under said section of the law, is to the point in connection with my note of the 25th March, which confined itself to request compliance with the provisions of a treaty stipulation. The same may be predicated of the reference made to the failure to adjust a reciprocity convention between the two countries, as well as of the alleged fact that the negotiations with other governments have not been attended with the like unsatisfactory result. So may be also said of the assertion that the custom-house tariff of Colombia is more unfavorable to the United States than those of the nations alluded to in my note of the 25th March, and likewise of the allegation that until the tariff of Colombia be materially modified that country can not invoke the favorable treatment which at some future time may or may not be conceded to the countries just before referred to. None of these statements has any connection with the issue presented in the note to which they are made in reply.

Admitting, *argumentum gratia*, that as matters of fact those statements are incontestably correct, it would not follow, nor could it possibly be pretended, that anyone of them in the least modifies any part of the existing treaty between the two countries; nor impairs the right



of Colombia to demand and insist upon the observance of treaty stipulations; nor releases the United States from compliance with their obligations under the compact; if, therefore, such allegations have no bearing on the treaty they can not be put forward as a bar to its observance.

I have assumed, for the sake of argument, that the statements I am referring to, substantially extracted from the note of the 31st May, are correct, as matters of fact; but, in reality, I contend that some of them, at least, are erroneous. I shall not, however, discuss these discrepancies of opinion, in order not to divert attention from the main issue.

I can not, however, refrain from observing that while it is asserted that with none of the countries mentioned in my note of the 25th March are the commercial and tariff relations of the United States as unfavorable as with the Republic of Colombia, precisely the reverse happens to be the case, at least with regard to nations on this continent. So, if the custom-house tariff of either the Argentine Republic or Mexico were diminished or reduced by one-third the tariffs so reduced would still be, on the whole, higher than that of Colombia.

Again, tonnage and port dues are an onerous tax on vessels entering South American ports, with the exception of Colombia, where practically these charges are nominal. Fully 30 per cent of our import trade is composed of American produce, a proportion greatly in excess of the share of the United States in the import trade of any other South American country. The proportion of American goods admitted free of duty into Colombia is considerably greater than in any other of the countries south of the United States.

The freedom of the isthmus ports at either extremity of the Panama Railway, which was established in the interest of interoceanic commerce, and of which the United States have since 1856 benefited to a larger extent than any other, or perhaps than all other nations collectively, is a most important concession, which can not be lost sight of, when considering the commercial and tariff relations between Colombia and the United States. This liberal measure is of itself sufficient to entitle Colombia to any privileges respecting commerce and navigation which this Government might concede to other nations. But I will not further pursue these remarks on the commercial relations of Colombia with the United States compared to those of other countries. It is to be regretted that the subject was not discussed previously to the issuance of the proclamation of 15th March. It has no importance when considered with reference to the observance of treaty stipulations.

In his note of the 31st May, your predecessor does me the honor to say he had been directed to inform me that the President did not consider the tariff law of 1890, nor his action under it, as in violation of article 2 of the treaty referred to by me.

I beg leave to respectfully observe that I have never asserted anything contrary to the opinion which the President has been pleased to express, and in which I entirely concur. That is to say, that neither the tariff law nor its execution can be held to be in direct violation of article 2 of the treaty, the observance of which I have demanded; and I may now remark that, since it is admitted on both sides that there is no conflict between the law or its mode of execution and the article of the treaty, I am at a loss to understand why the provisions of the treaty are not carried into effect.

Immediately after the paragraph in which the above-mentioned communication appears, the following observation occurs:

The law cited applies the same treatment to all countries whose tariff is found by the President to be unequal or unreasonable.

I do not clearly apprehend the purport of this remark, but if it be put forth as the grounds on which the opinion I have adhered to is founded, or intended to imply that the law as executed meets and satisfies the requirements of article 2 of the treaty, I beg leave to state that I entirely dissent from such views and conclusions.

The similarity of treatment guaranteed by the contracting parties to each other in article 2 of the treaty (say, by the United States to Colombia) is equality with the most favored nation, and I need hardly point out that this condition is not fulfilled by bestowing on Colombia the treatment that is meted to the nation most disfavored. This would be placing Colombia in a position diametrically opposite to the one which that country is entitled to occupy, under the treaty, in its commercial relations with the United States.

Inasmuch as article 2 of the treaty does not inhibit either Government from conceding exemption of import duties on the produce of foreign nations, or from imposing import duties on the products of each other, it follows that neither the provisions of the law of October, 1890, or their execution can be held to violate said article. Nor would there be infringement of treaty should it come to pass that in the exercise of those prerogatives by the United States certain articles, say, hides and coffee, the produce of foreign nations, were admitted free of duty into the United States, while like articles from Colombia were subject to duty, since the article in question contemplates the existence of that very condition of things. On these considerations it may, in my opinion, be contended that neither the tariff law of 1890, nor the action taken under it is, strictly speaking, in violation of article 2 of the treaty of 1846.

These views seem to me to be supported by precedents too numerous to need reference to particular cases. When a government freely grants a commercial privilege to a nation, all other nations possessing with said government treaties which contain the most favored nation clause, would be entitled to acquire the privilege supposed to have been gratuitously granted. But it would be unreasonable to prefer the claim to the privilege, based on a protest for breach of treaty.

The mode of proceeding is, invariably, to request to be put on the same footing with the favored nation as provided for in the treaty. If, however, this demand be refused or disregarded, grounds will arise for protest against breach of treaty growing out, not of the concession made, but of the failure to carry out or refusal to comply with the provision of the most favored nation clause. Accordingly, should the Government of the United States continue to withhold from Colombia the favors gratuitously enjoyed by the Argentine Republic, Mexico, and other nations, it may become my duty to protest, not against the provisions of the tariff law, or the action of the President under that law, but against the refusal of the Government of the United States to abide by and carry out the stipulations contained in article 2 of the treaty of 1846.

With reference to the closing remarks contained in Mr. Blaine's note, I have to say that the information sent by Minister Abbott must refer to a state of things previous to the 15th of March. Subsequently to that date I have received no instructions to modify the proposals which I had the honor to submit to your Department in my notes of the 25th February and 12th March. On the other hand, the difficulty has been pointed out to me of continuing the negotiation on the basis of mutual concessions as long as the coercive measure adopted against



Colombian produce upon its importation into this country be not removed.

In conclusion, I beg leave to express the hope that I may be favored, at your earliest convenience, with an explicit reply of my note of the 25th of March last past.

Accept, etc.,

J. M. HURTADO.

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*Señor Hurtado to Mr. Foster.*

LEGATION OF COLOMBIA,  
*Washington, July 28, 1892. (Received July 29.)*

SIR: I am directed by my Government to protest against the delay incurred in extending to hides and coffee the produce of Colombia the privilege of free importation into this country which is gratuitously enjoyed by the like articles of other nationalities, as set forth in my note of the 25th of March last and subsequent communications. Article 2 of the existing treaty between Colombia and the United States of America stipulates that favors freely granted by either contracting party to foreign nations shall "immediately" become common to the other contracting party; and the delay, on the part of your Government, to render the stipulation effective after the prerequisites to that end have been realized, and the attention of your Government called to that fact, constitutes a manifest infringement of the treaty.

I am further directed to earnestly protest against the unfavorable discrimination respecting import duties made by proclamation on hides and coffee, the produce of Colombia, to the advantage of like articles of sundry other nationalities, such distinction being contrary and in direct opposition to the spirit and express terms of the existing treaty. The object which the contracting parties had in view upon entering on the treaty of 1846 was (article 3) to place "the commerce and navigation of their respective countries on the liberal basis of perfect equality and reciprocity," and to this end, as an examination of the compact will show, they agreed to grant to the citizens, merchandise, and vessels of each other the same rights and privileges that, in matters of commerce and navigation, might be enjoyed by native citizens, their merchandise and vessels. Hence it follows that in said matters the citizens of the United States in Colombia, as well as the citizens of Colombia, their goods and vessels in the United States would, in many instances, enjoy greater privileges than the citizens, goods, and vessels of other countries, and could never be subjected to less favorable conditions.

Respecting discriminating duties this conclusion has been acknowledged by the Government of the United States in the most direct manner and on the most solemn occasion. In the message of President Polk, dated the 15th February, 1847, accompanying the treaty of 1846 at the time it was submitted to the Senate in quest of its approval, the following statement was made:

This treaty removes the heavy discriminating duties in the ports of New Granada which have nearly destroyed our commerce and navigation with that Republic and which we have been in vain endeavoring to abolish for the last twenty years.

There is no special provision in the treaty of 1846 to remove the then existing discriminating duties imposed by New Granada on the com-



merce of the United States. The obligation to abolish the duties referred to by President Polk in his message grew out of general and reciprocal stipulations still extant. In virtue thereof the odious distinction against American commerce was done away with by the Government of Colombia, and this constitutes a precedent under the treaty which the Government of the United States can not, in the case in point, disregard without breaking faith with that of Colombia.

The treaty has corresponded to the expectations entertained when it was entered upon. The interchange of commercial commodities, or aggregate import and export trade of the two countries with each other, which for the decade ending with the year 1846 hardly aggregated \$7,000,000 has exceeded during the decade ending 1890, \$100,000,000. This comparative prosperity of the trade between the two countries has been attained in a measure by the faithful observance by Colombia of the stipulations of the treaty during a period now nearly extending over half a century; and the United States have no right to destroy or impair this result to the injury of Colombia, through nonadherence to the conditions of the treaty, without previous notice of their intention to rescind the compact and allowing the time to elapse required for its termination.

I am also instructed to protest for violation by your Government of the express terms of the first section of article 5 of the existing treaty, which stipulates as follows:

No higher or other duties shall be imposed on the importation into the United States of any articles the produce or manufacture of the Republic of New Granada \* \* \* than are or shall be payable in the like articles, being the produce or manufacture of any other country \* \* \*.

And inasmuch as by proclamation of the 15th of March last, certain onerous duties have been imposed on the importation into the United States of America of hides and coffee the produce of Colombia, while the like articles of other nations are admitted free of such duties, it is manifest that the above-quoted stipulation of the existing treaty has been violated by your Government in the most flagrant manner.

The nations that enjoy the privilege of free importation of hides and coffee into this country may be divided into two categories: (1) Those which like Mexico, the Argentine Republic, etc., freely receive the favor in question, and (2) those which like the United States of Brazil and others, have acquired the concession by yielding certain tariff advantages in favor of United States produce when introduced into their territory. It is evident, however, that in virtue of the stipulation above cited the concessions made by the United States will in either case become common to Colombia, for the terms of the treaty clause are unconditional and absolute, and consequently independent of all extraneous considerations that might be alleged with a view to alter their plain and natural meaning.

This article 5 of the treaty of 1846 is to be found, *mutatis mutandis*, in most modern treaties of commerce, and it may be asserted that the interpretation just given of its meaning and scope has been accepted by every nation. Some statesmen of this country have at times contended that the stipulation does not apply to cases where discrimination against the merchandise of one of the contracting parties grows out of a valuable consideration received by the other contracting party from the foreign nation in whose favor the discrimination is established. This is equivalent to maintaining that where obligations are mutually and reciprocally undertaken by two parties either of them may depart therefrom upon receiving from another party a valuable consideration for so doing, a doctrine which is evidently untenable.

Where discrimination as to import duties on the produce of nations, bound by the treaty stipulation in question, arises out of concessions gratuitously made by one contracting party in favor of merchandise of a foreign nation, there is not perhaps a single precedent to justify the refusal of the same privilege, on like merchandise, to the other contracting party. The action, therefore, of your Government in refusing to Colombia the exemption from duty on coffee and hides, while this favor has been gratuitously granted to several other nations, is sufficient to establish the treaty violation complained of; but, as has been said before, the same would be the case from the standpoint of the discrimination made in favor of those nations who have yielded equivalent concessions to the United States in exchange for the free importation into this country of hides and coffee, as, for instance, Brazil. For, by having undertaken in the treaty the obligation of not imposing on the produce of the United States other or higher duties than shall be payable by like articles of any other nation, Colombia has already yielded the consideration which entitles her to receive the same treatment that is accorded to Brazil, in exchange for special concessions.

The clause of article 5 of the treaty of 1846, so often above alluded to, is met with for the first time in the treaty entered into between the United States of America and Great Britain in 1794. Section 2 of Article xv of said treaty stipulates:

Nor shall any other or higher duties be imposed in one country on the importation of any articles the growth, produce or manufacture of the other than are or shall be payable on the importation of the like article being the growth, produce, or manufacture of any other country.

It will be seen that the clause in article 5 of the treaty of 1846 is but a declaratory form of the above.

The treaty of 1794 was submitted to the Senate early in June of said year. A resolution was offered to ratify the agreement with only a modification on Article XII with reference to the West India trade, having no bearing on the clause of Article xv, above cited. This motion was debated at great length and in the course of the debate Mr. Madison said:

In the treaties which profess to put us on the footing of the most favored nation it is stipulated that where new favors are granted to a particular nation in return for favors received, the party claiming the new favors shall pay the price of it. \* \* \* But this article gives to Great Britain the full benefit of all privileges that may be granted to any other nation without requiring from her the same equivalent privileges with those granted by such nation. Hence it would happen that if Spain, Portugal, or France should open their colonial ports to the United States in consideration of certain privileges in our trade, the same privileges would result *gratis* and *ipso facto* to Great Britain.

There was no discrepancy of opinion expressed in Congress as to this meaning of the clause in question of Article xv of the treaty of 1794; though the reciprocal condition of the stipulation brings it within the nature of a bargain and deprives it of the character of a gratuitous concession.

The advantage obtained by Great Britain under the treaty of 1794 in the hypothetical case put forth by Mr. Madison would be compensated by similar advantages that would accrue to the United States whenever Great Britain might make commercial concessions to other nations for a consideration. So in the present demand of Colombia to be put on a par with Brazil regarding the free import of hides and coffee, my Government is not asking for a gratuitous concession, but for the possession of a privilege the price of which was paid when differential duties on American commerce were removed immediately upon the



treaty of 1846 coming into effect, and they confidently hope that that of the United States will recognize and do honor to the obligation which they have contracted.

The meaning of section 2 of Article xv of the treaty of 1794, as explained by Mr. Madison, was confirmed in the course of the debate on the treaty, as well as the resolve of the majority of the Senate to accept the clause without restricting its signification.

On the 22d June motion was made to postpone the previous motion and agree to a resolution which contained the following, among other provisos (with reference to) Article xv:

That no clause be admitted that may restrain the United States from reciprocating benefits by discriminating between foreign nations in their commercial arrangements. \* \* \*

Two days later, on the 24th, a new motion was made to postpone the motion before the Senate and deny ratification to the treaty. Among other reasons given:

5th. Because the treaty prevents the United States from the exercise of that control over their commerce and navigation as connected with other nations, which might better the condition of their intercourse with friendly nations.

The two last-mentioned motions were negatived, and the original motion asking for ratification of the treaty with modification of Article XII respecting trade with the West Indies was approved. This clearly establishes the sense of the majority of Congress as to the meaning of the clause of Article xv under consideration. It was accepted in its plain meaning as interpreted by Mr. Madison, and the efforts made to reject its absolute signification were themselves rejected. Under the said clause of Article xv of the treaty of 1794, concessions made by one of the contracting parties to third nation, *ipso facto* become common to the other party, whether the concession be conditional or not.

The treaty of 1794 lapsed in consequence of the war of 1812, and in 1815 a convention was adjusted between the United States and Great Britain to regulate the commerce between the two countries.

The first section of article 2 of the convention of 1815 is but a declaratory form of the second section of Article xv of the treaty of 1794. The language of the respective texts is identical. The convention of 1815 was negotiated while Mr. Madison was President of the United States. We know, therefore, the sense in which he understood that language and the meaning he attached to it. Besides, in adopting in the convention a clause transferred verbatim from the treaty of 1794 the treaty clause carries with it its established interpretation.

Hence section 5 of article 2 of the convention of 1815, having been introduced, *mutatis mutandis*, into the treaty of 1846 between Colombia and the United States, forming article 5 of the compact, it carries with it and imparts to this article the meaning of the original provision in the convention of 1815, which already had been established by the signification accepted by the Congress of the United States as belonging to the same clause in the treaty of 1794.

In 1838 the Government of the United States protested, as in violation of article 2 of the convention of 1815, against the admission into Great Britain of rice imported from the west coast of Africa at a lower duty than was levied on the same article exported from the United States. The Government of Great Britain alleged, in justification of the discrimination, that it was not made to depend on the country of production of the rice but on the region whence exported.

The Government of the United States contended that the spirit of the treaty and the absolute character of the stipulation rejected the



alleged geographical distinction as to place of export. Mr. Everett, then minister of the United States in England, in a note addressed to the foreign office, dated 1st February, 1841, said:

\* \* \* Treaties are to be interpreted, not according to the letter, but the spirit and intention of the whole instrument. \* \* \* Of the direct objects of the treaty there can be no room to doubt. Both governments intended to place their commerce and navigation upon the solid foundation of reciprocal benefits. Each power reserved to itself the right of regulating by its laws its intercourse with other nations. \* \* \* Both are at liberty to determine the extent to which the advantages secured by treaty should be enjoyed, limited only by the degree of favor to which the produce of the most favored nation should be allowed to enter the ports of each. \* \* \* Her Majesty's Government had the undoubted right to give to Africa \* \* \* whatever advantages it might deem expedient, \* \* \* but not to the injury of the United States, under the provisions of the existing treaty and in violation of its faith.

The result of the protest and action of the U. S. Government was that, in 1846, Great Britain paid £88,000 to the United States for excess of duty collected on rice the produce of the United States, imported into the United Kingdom.

I have referred to the above case, not only as a precedent in support of the views held by my Government respecting the subject-matter, but also as manifesting the opinion held by your Government in 1846, when the existing treaty with Colombia was negotiated, respecting the meaning of article 2 of the convention of 1815, and to remark that this meaning could not have been different from that attached to the same stipulation at the time introduced in the treaty entered into at Bogotá. The intention, therefore, of the Government of the United States when entering upon the treaty with Colombia is fully established. As between the contracting nations differential duties were abolished, and the conclusion arrived at is corroborated by the language of President Polk's message at the time the treaty was submitted to the Senate, hereinbefore quoted.

On the 10th of March, 1869, Mr. Garcia, the Argentine minister in Washington, addressed a proposal to the Department of State to enter upon a reciprocity treaty with mutual concessions as to import duties.

Hon. Hamilton Fish, then Secretary of State, replied under date of the 14th of the same month and year, declining to enter into such an agreement, among other reasons, on the ground that there existed treaties between the United States and other countries which would give these the right to claim for their products on being introduced into the United States, the same duties agreed upon for Argentine commodities in the proposed treaty. In the greater number of cases therefore, entering upon a treaty such as was proposed, would amount to a simultaneous agreement with many other nations.

The above statement, which I should explain is taken from a Spanish translation of Hon. Hamilton Fish's note, clearly shows that the State Department has adopted the absolute interpretation of the most-favored nation clause, to which alone could Mr. Fish have referred as giving to other nations the right to claim, in favor of their produce, the same tariff concessions made under agreements of a reciprocal character with Argentina.

I am also instructed to protest against the express violation by your Government of the last section of article 5 of the treaty of 1846, whereby it is stipulated as follows:

Nor shall any prohibition be imposed \* \* \* on the importation of any articles the produce or manufacture \* \* \* of the Republic of New Granada to \* \* \* the United States \* \* \* which shall not equally extend to all other nations.

Duties which materially impair the importation of any article into a country are universally termed prohibitory; but when they are of discriminating nature or what are termed differential, they completely prevent importation of the articles on which they are imposed and are as efficient a prohibition to import such articles as could be placed upon them.

The discrimination against Colombian hides and coffee is not only therefore a violation of the letter of the treaty under the clause last invoked, but by totally prohibiting our chief commodities in the trade with this country from being imported into the United States, Colombian merchants are deprived of the means of making returns for merchandise purchased from your manufacturers which must end in destroying a trade it was the object and spirit of the treaty to foster and promote.

I beg leave to state that the present note has in view not only to protest against the unwarranted and unjustifiable violations by your Government of the existing treaty of 1846, by their delay to carry into effect the provisions of article 2 of said treaty, by the imposition of other and higher import duties on Colombian hides and coffee than are payable upon the like articles the produce of other countries, by the prohibition thus placed on the importation into this country of said articles and the consequent destruction of the commerce between them in direct opposition to the object and spirit of the treaty, but this note is also addressed to you as a demand for a remedy to and reparation for the injuries which your Government has inflicted and continues to inflict upon our reciprocal commerce through their disregard for the rights of Colombia and for the correlative obligations incumbent on the United States under the said treaty of 1846. To attain this end I have been directed to earnestly invoke the good faith and high sense of justice of your Government, and to express the conviction that the appeal will not have been made in vain, if careful and impartial attention be given to the points which I have had the honor to submit to your consideration in the course of the present communication.

Accept, etc.,

J. M. HURTADO.

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*Memorandum of an interview between the Secretary of State and Señor Hurtado, Minister of Colombia, August 24, 1892.*

Señor Hurtado having inquired by telegram from New York as to what day it would be convenient to see the Secretary of State, an answer was sent that he could call at the Department on the 24th or 25th at his convenience.

He called in the forenoon of the 24th, and stated that he was instructed by his Government to call upon the Secretary of State before leaving for Europe (intending to sail Saturday, the 27th), and ask whether he could receive an answer to his note of July 28th, as the Congress of Colombia was now in session and the Government desired to be informed of the views of the Government of the United States on the question discussed in the note referred to.

The Secretary replied that he could make answer either verbally to the minister in this interview or in writing at a later date. In view of the grave character of the note the Secretary thought that it would be much more satisfactory to both Governments if he adopted the latter course. He suggested that, as the minister knew, the President was



now absent from the capital, and before making written reply he felt it his duty to lay the minister's note before the President and receive his instructions thereon.

Señor Hurtado stated that he recognized the propriety of consulting the President, and that he would not now press further for an answer. He at the same time expressed the earnest desire of his Government for the preservation of intimate and friendly relations with the United States, and trusted the answer would be of such a character as to advance that end.

The Secretary expressed great regret at the grave charge which had been preferred against the United States in the note sent by the minister. In view of all the efforts which the Government of the United States had made in the past eighteen months to reach a satisfactory commercial arrangement with Colombia, similar to that which had been entered into with its neighboring governments of Central America and Brazil, he regretted that the minister had felt it his duty to write the note now under discussion. In the opinion of the Secretary it would not tend to the promotion of friendly or more intimate relations between the two governments.

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*Señor Hurtado to Mr. Foster.*

NEW YORK, September 5, 1892. (Received Sept. 7.)

SIR: Under date of the 25th July last I sent to the minister of foreign affairs at Bogotá, a full and detailed report on the nature and result of the interviews which I had the honor to hold with you, consequent upon your invitation of the 11th of said month, to call on you at the State Department. I stated in my report that you had, in friendly terms, expressed the hope that the questions at issue between our respective governments growing out of the action taken by the President of the United States, in execution of the 3d section of the law of October the 1st, 1890, would be adjusted on the basis of mutual concessions; and to that end you suggested we should take the matter into consideration, prescinding, for the time being, all points bearing on treaty rights, by which means a common and satisfactory accord might possibly be arrived at.

I reported that I had cheerfully embraced your proposal as in accordance with the ideas and views of my Government; and that our common endeavors, in the course of several conferences, had enabled us to reach an understanding presumed to be acceptable and satisfactory to our respective governments on all but one point.

A list had been formed enumerating and describing sundry articles produced or manufactured in the United States, the admission of which into Colombia free of duty was to be the basis of the understanding sought to be established. It was understood that in granting freedom from duty to said articles it would be expressed that the concession was made with relation to the nationality of the favored merchandise; but without prejudice to the right of the Government of Colombia to grant the same exemption from import duty on the like articles the produce of other nations. It was further understood that the contemplated concession in favor of articles of American production would be made in reciprocity for the advantages derived from the free admission into the United States of Colombian produce, yet not by way of compensation therefor.



Upon this condition of things it was understood, on the other hand, that the President of the United States would revoke his proclamation of the 15th of March last, in virtue of which the free entry into the United States of certain products of Colombia has been suspended; but, unfortunately, we were unable to arrive at a common accord regarding the precise time when such action should be exercised by the President. Adhering to my instructions I restated what I had intimated at the inception of the negotiation, viz, that my Government could not definitively undertake to carry out the conditions attached to the understanding as long as the proclamation of the 15th of March remained in force, inasmuch as they would be acting under pressure and coercion, which would divest the measure they might adopt in favor of American interests of the voluntary and friendly spirit which it was essential should characterize the act. But I added that I was authorized by my Government, forthwith upon the duties imposed by the proclamation being removed, to convey to you the most positive assurance that action would be taken by the Government of Colombia towards promptly and faithfully carrying into effect the conditions of the understanding arrived at. Your reply was, in substance, that this mode of proceeding could not be adopted, as the President was clearly of opinion that he had no authority to suspend his proclamation as long as the existing state of things remained unchanged. Hence, our endeavors to dispose of the question through mutual concessions were discontinued.

I have thought it desirable to lay before you the substance of my report for the better intelligence and appreciation of what I shall proceed to add.

I have lately received a cable dispatch from the minister of foreign relations, at Bogotá, acknowledging the receipt of my report of the 25th of July, and in connection therewith I am informed that the President has asked Congress for authority to decree the free entry into Colombia of the articles of merchandise designated in the list drawn up between us, in the course of our interviews on July last, and to which reference has been made above. There is no reason to doubt but that the request of the President will be granted by Congress, and, in anticipation of this result, I am directed to propose that when the authority solicited from Congress shall be vested in the President the duties imposed on Colombian produce by the proclamation of the 15th of March last shall be removed, with the express understanding that immediately thereupon the President of Colombia will issue a decree exempting from import duty the articles designated in the list above mentioned, the produce of the United States; without prejudice, however, to the right of the Congress or President of Colombia to extend the same exemption from import duty, to like articles, the produce or manufacture of other friendly nations.

This proposition which I have the honor to submit to your consideration under recent instruction disposes of the only impediment that stood in the way to the attainment of a harmonious and satisfactory settlement of the matter it has reference to, without mootng the subject, and independently of treaty rights and obligations, which has been throughout the earnest desire of both governments to accomplish.

The prompt response of the President of Colombia on becoming acquainted with the difficulty that prevented the contemplated arrangement from being carried into effect—by taking immediate action toward obviating that difficulty and proposing to forthwith assume definite obligations—can not be otherwise viewed than as a mark of deference toward the Government of the United States and an earnest of the

desire of the President to meet their views, of which I have on so many occasions conveyed to you the sincere expression.

I am lastly directed, Mr. Secretary, to express the hope, relying on the assurance imparted to me in the name of the President of the United States, contained in the note of your predecessor of the 31st of last May, that the position which recent instructions enable me to assume, furnishes the opportunity to finally and satisfactorily bring to an end and dispose of the subject-matter under consideration.

Accept, etc.,

J. M. HURTADO.

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*Señor Hurtado to Mr. Foster.*

PLAZA HOTEL,

*New York, September 7, 1892.* (Received September 8.)

MY DEAR SIR: In the cable dispatch the substance of which I laid before you in my official note of the 5th instant, I am requested to ascertain and communicate to our minister of foreign relations, as soon as possible, the sense of your Government in regard to the proposition contained in the note. It would be looked upon as a favor and thankfully acknowledged if you were good enough to give to the matter the earliest attention compatible with your many other important duties and convenience.

Should you consider the proposed arrangement acceptable I would be happy to meet you at the time and place most convenient to you, to agree upon the terms of notes to be exchanged to perfect the agreement. If otherwise, which my Government would very much regret, my functions will be confined to cabling the information to Bogotá, and I sincerely hope that such will not prove the case.

I remain, etc.,

J. M. HURTADO.

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*Mr. Foster to Señor Hurtado.*

DEPARTMENT OF STATE,

*September 8, 1892.*

MY DEAR SIR: Your letter of yesterday was received this morning, asking me for an early reply to your official note of the 5th instant.

I am pleased to be able to say that your request had already been anticipated, as a reply was prepared on yesterday and will doubtless be mailed to you to-day. If the Congress of Colombia confers upon the President the power mentioned in your note of the 5th instant, I see no reason why we should not reach a satisfactory solution of the question on the lines indicated in our conferences. At least, I should be ready to do all in my power to bring it about.

With great respect,

I am, etc.,

JOHN W. FOSTER.



*Mr. Foster to Señor Hurtado.*

DEPARTMENT OF STATE,  
*Washington, September 8, 1892.*

SIR: I have the honor to acknowledge the receipt of your note of the 5th instant respecting the subject of reciprocity of trade between the republics of the United States and of Colombia. Your note, in the first place, contains a reference to a series of interviews which took place between us at this Department in the month of July, with a statement, on your part, of the results of those interviews. You will remember that it was mutually understood that the interviews were of a strictly confidential and informal character and that unless they happily resulted in an agreement, which should be reduced to written form they were not to be regarded as committing either of us in any particular. So fully was this understanding observed that I returned to you all notes and memoranda which you had submitted to me when it became apparent that we could not reach an accord.

Under these circumstances I am not prepared to accept as a full or entirely satisfactory report of these interviews the results stated in your note. I venture to suggest that, in the interest of a friendly settlement of the question, it might have been better if you could have found it convenient to come to Washington and reopen with me the conferences by communicating the highly gratifying intelligence, contained in your note, of the action of the President of Colombia in seeking to obtain from your Congress such authority as will place him, in a great measure, on a parity of conditions with the President of the United States, and thus greatly facilitate our negotiations. While I desire to assure you that I am still actuated by the same cordial spirit of friendship which led me to invite you to the interviews of July last, a circumstance has occurred since that date which has materially changed the condition of affairs. Within a few days after our last interview, to wit, on July 28, you addressed me a note in which the Government of the United States is arraigned for unwarranted and unjustifiable violations of treaty stipulations, and a demand is made for a remedy to and reparation for the injuries which you charge are being inflicted on your country thereby.

I have delayed an answer to this note in order that I might ascertain whether this unusual and grave charge had been made under the specific instructions of your Government after full knowledge by it of our negotiations, and also in the hope that some way might be found to obviate the necessity of a reply in the terms called for by the language employed by you. It was, therefore, very pleasant for me to be informed through your note of the 5th instant that the President of Colombia had asked the National Congress to confer upon him the necessary power to negotiate with this Government a reciprocity arrangement. Such action on his part gives me the assurance that he can not entertain the belief that the Government of the United States is engaged in unjustifiable violations of solemn treaty stipulations entered into with his country. You must, however, readily comprehend, Mr. Minister, how great an obstruction exists in your note of July 28 to any friendly settlement of the reciprocity question.

With that grave allegation confronting me I do not feel justified in making any stipulations or assurances in the sense indicated in your note of the 5th instant. Besides, in our interviews referred to, I directed your attention to the fact that all the reciprocity arrangements we had made with other governments had been by exchange of notes, and I informed you that it was the wish of the President that a



similar method be followed in the case of Colombia. Should the Congress favorably respond to the application of the President of your country, and you should make the way clear for a renewal of our negotiations, I entertain a strong hope that we might reach a satisfactory settlement of this question, respecting which my Government has felt and continues to feel much interest, not unmixed with solicitude, because of its earnest desire to maintain with Colombia the most intimate and friendly commercial and political relations.

Accept, etc.,

JOHN W. FOSTER.

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*Señor Hurtado to Mr. Foster.*

PLAZA HOTEL,

New York, September 14, 1892. (Received September 16.)

SIR: I have had the honor to receive your communication of the 8th instant in acknowledgment of mine of the 5th, and beg leave to confine my reply on this occasion to that part only of your note which refers to my previous communication of the 28th of last July.

It is, Mr. Secretary, with much regret and concern that I have become aware of the impression produced upon you by the contents of my said note of July. Allow me to assure you that you have given to its tenor a sense which it was never intended to convey, and which I shall endeavor in the course of this note to rectify, hoping to remove from your mind the unfavorable idea you have conceived in this respect.

You state that my note contains an unusual and grave charge against the Government of the United States; and you take exception, besides, at the language employed, to an extent that, in your opinion, it calls for a reply in special terms.

I repeat that I am grieved to find that, both in substance and in form, my note should have impressed you in so unfavorable a manner. Nothing could have been further removed from my intention than transgressing the respect and high consideration which the Government of the United States is entitled to expect and receive in the course of their relations with the representatives of other governments in Washington. It is the first duty enjoined upon these to, on every occasion, observe the most courteous, respectful, and considerate demeanor towards the Government to which they are accredited.

I do not perceive, Mr. Secretary, wherein I have failed in this respect, but if unfortunately there occur in the note in question any expressions susceptible of being interpreted in a sense that would manifest want of due respect and proper regard for the Government of the United States, I beg you will at once accept my sincere regret for a circumstance that I would deeply deplore and the positive assurance that it was never intended that such expressions should be so understood.

You are pleased to state the matter and nature of your objections to my note in the following passage which I transcribe from yours of the 8th instant, with a view to submit some remarks thereon:

Within a few days after our last interview, to wit, on the 28th July, you addressed to me a note in which the Government of the United States is arraigned for unwarranted and unjustifiable violation of treaty stipulations, and a demand is made for a remedy to and reparation for the injuries which you charge are being inflicted on your country thereby.

I do not presume that your attention has rested on the words "unwarranted and unjustifiable," which I used in reference to the treaty

infringements complained of, and which appears in the part of your note above quoted. These words are often employed in connection with treaty violations. Instances of such use occur in the published correspondence of the State Department on foreign relations, which I refer to as recognized examples of correct diplomatic style; yet when this phrase is looked into, it is found to be a mere redundant expression.

Every violation of treaty must necessarily be both unwarranted and unjustifiable; for if the act reputed to constitute the breach of treaty were either warranted or justifiable, its exercise would be lawful and could not, at the same time, be a violation of treaty; that is to say, a wrongful act. But since all breaches of treaty must necessarily be both unwarranted and unjustifiable, it follows that no difference can be made between the expressions "violation of treaty" on the one hand and "unwarranted and unjustifiable violation of treaty" on the other. The words "unwarranted and unjustifiable" are mere expletives. They do not alter or aggravate the character of the treaty infringement.

You view the note of the 28th July as arraiguing the Government of the United States for violation of treaty stipulations and making a demand for a remedy to and reparation for the injuries which are thereby inflicted on Colombian interests.

If the note is to be considered under this aspect, we are led to inquire before what tribunal has the arraignment been attempted; and it will appear that it is not before any of the tribunals to which nations agree to submit their disagreements for adjudication. The forum where the arraignment has been intended will be shown by reference to the last paragraph of the note of the 28th July.

The complaint of Colombia is therein set forth. The demand you refer to, asking for a remedy for the future and reparation for the past, also appears; and in connection therewith I had the honor to address you as follows:

To attain this end I have been directed to earnestly invoke the good faith and high sense of justice of your Government, and to express the conviction that the appeal will not be made in vain if careful and impartial attention be given to the points which I have had the honor to submit to your consideration in the course of this communication.

Therefore that which you designate as an arraignment of the Government of the United States is in reality a direct appeal to their justice and good faith, in which the greatest confidence and reliance is manifested. How this unmistakable tribute, paid to the integrity and rectitude of the Government of the United States, can in any way tend to disturb the cordial relations between the two governments, or become an obstruction to a contemplated settlement of the question at issue, on the basis of mutual and friendly concessions, is a matter which I candidly assure you, Mr. Secretary, I am at a loss to understand. I can only hope that the continued endeavor of my Government to meet the views you advocate, to the utmost extent consistent with the legitimate interest of Colombia, of which you have lately had so positive a proof, will ultimately prevail and bring about a common and satisfactory understanding.

I trust, Mr. Secretary, that the frank and sincere explanations which precede will attain the object with which they are tendered, disposing you to reconsider the contents of my note of the 5th instant, and to favor me with a definitive reply to the proposal I had the honor to submit to you under instructions from my Government.

Accept, etc.,

J. M. HURTADO.



*Señor Rengifo to Mr. Gresham.*

[Translation.]

LEGATION OF COLOMBIA,  
*Washington, D. C., June 16, 1893. (Received June 17.)*

Hon. Mr. SECRETARY:

In fulfillment of our agreement at the interview that you did me the honor to accord me yesterday I acquaint you with the dates of the communications addressed by this legation to your honorable Department relative to the proclamation of the 15th of March of last year, which imposed discriminating duties on coffee, hides, etc., of Colombian origin on being imported into the United States, to which communications my Government instructs me to call your attention. The said notes were addressed on the following dates: March 25, May 11 and 18, June 5, and July 28 of the past year.

The communications of March 25, May 11, and July 28 have not been answered, and the reply given to the other notes mentioned does not weaken the arguments they contain in favor of the rights they seek to establish.

I consider it absolutely inopportune to make to the honorable Secretary a statement of facts and an enumeration of the reasons which support my Government's contention that not only the special stipulations contained in articles 2 and 5 of the treaty concluded between the United States of America and the Republic of Colombia in 1846 have been plainly violated by the proclamation issued the 15th of March, 1892, but that it is also contrary to the general spirit of that compact, considering that the reading of the communications, the dates of which I have cited, will amply satisfy said purposes, and will carry to your mind the conviction that my Government has more than reason to hope to be immediately restored to the enjoyment of the rights which the treaty guarantees to it, and the reparation of the injuries, by the restitution of the duties collected on Colombian products that may have been imported during the time the proclamation remained in force, and which were of course paid under protest.

Those communications contain, moreover, the relation of precedents of indisputable force concerning the manner in which the United States has interpreted clauses analogous to those included in articles 2 and 5 of the treaty of 1846 in its treaties with other nations, as well as the spirit and intentions that moved the two contracting nations to conclude that treaty, and set forth the true situation of the commercial relations between the United States and Colombia, making evident the indisputable advantages enjoyed by the United States; for this reason I confine the myself to ratifying their contents and to reiterating the demand for remedy made in them, of the order of things created by the so often cited proclamation of March 15, 1892, so prejudicial to the well-known interests of the two countries.

As I had the honor to represent to the honorable Secretary my Government earnestly desired to strengthen more and more the commercial relations existing between the United States of America and Colombia; but to obtain that result it is absolutely indispensable to remove the discriminating duties imposed on our products, which make it impossible to us to compete with similar products of other countries and virtually close for us the American markets. Nations, generally speaking, buy where they sell, and if Colombia can not realize on its products in the United States, the commercial current which can only



be directed by convenience, will necessarily find its way to other countries where may be found the advantages that are here denied, a fact of which the alarming symptom is already noted in the latest statistics.

Consequently considerations of a very distinct order concur for the revocation of the proclamation of March 15, 1893; those which originate in respect for the faith plighted in the treaty of 1846, and to this respect my Government, which has the most absolute confidence in the spirit of justice which animates that of the United States, is certain that they will suffice to prompt the acts of reparation due to it and those which are independent of the natural desire to protect one's own commercial interests, of which the Government of the United States has always shown itself to be so justly jealous.

I remain entirely at the orders of the honorable Secretary of State to enlarge and elucidate, verbally or in writing, any point in the correspondence of the Legislature that he may find obscure.

With sentiments of the highest consideration, I have, etc.

JULIO RENGIFO,  
*Chargé d'Affaires ad interim.*

*Señor Hurtado to Mr. Gresham.*

LEGATION OF COLOMBIA,  
*Washington, October 5, 1893. (Received October 6.)*

SIR: On the 16th of June last, Mr. Rengifo, chargé d'affaires *ad interim*, had the honor to call your attention, among others, to my communication of the 25th of March, 1892, to which no proper and adequate answer has yet been made.

In the note above alluded to I asked attention to one of the provisions of article 2 of the treaty of 1846, between Colombia and the United States of America, whereby it is stipulated that when either of the contracting parties shall freely make a concession to another nation the concession thus gratuitously granted shall immediately become common to the other contracting party. I then remarked that certain nations, as, for instance, the Argentine Republic, Uruguay, Mexico, and others, were in the enjoyment and exercise of the privilege unconditionally (and therefore gratuitously) granted, under the second section of the United States tariff law, of importing free of duty into the United States hides and coffee of their respective production; that this state of things constituted the prerequisites to put in motion the treaty clause above referred to; and that I had, in consequence, been directed to ask the Government of the United States to take the necessary measures to render operative the stipulation in observance of the treaty.

In making this request my Government was neither soliciting a favor nor submitting a proposition which it was optional with that of the United States to accept or decline. They were demanding to be put in possession of a right acquired under treaty stipulations, a right growing out of an obligation reciprocally undertaken and respecting which the Government of Colombia had, in the particular case under consideration, fulfilled their part, when, upon ratification of the treaty of 1846, they abolished the existing differential duties on American commerce.

The United States have therefore already received the consideration for which they undertook to likewise exempt Colombian commerce from

the payment of differential duties whenever such might be established as part of the fiscal regulations of this country. This obligation matured when the tariff act of October, 1890, went into operation, and the Government of the United States can not refuse to abide by and at once carry it into effect without departing from the traditional good faith observed in their agreements with other nations.

Receipt of my note of the 25th of March, 1892, was only acknowledged on the 31st of May following, but the issue raised in my communication was entirely lost sight of in the reply. My note was described as referring to "the action of the President under the tariff law of October, 1890, in the imposition of duties on hides and coffee, the product of Colombia. \* \* \* "And I was informed by direction of the President" that he did not consider the law of Congress, nor his action under it, as in violation of article 2 of the treaty of 1846, referred to by me. The law cited applies the same treatment to all countries whose tariffs are found by the President to be unequal and unreasonable."

It will be seen that my note was interpreted and dealt with as a protest for violation of article 2 of the treaty of 1846 by the tariff law and the action of the President under it. However, I never made such an allegation, nor do I consider that such a construction can be put on what I wrote. The following were the opening words of my communication of the 25th of March, which entirely preclude the idea of protesting against the import duties on Colombian produce, which I looked upon in no other light than as an established fact:

Viewing the payment of import duties, to which hides and coffee of Colombia are subjected upon their introduction into the United States, as an existing fact, on the justice of which it is neither my purpose nor intention to touch in the present communication, etc.

Besides, I entertained the same opinion which the President had directed should be communicated to me. I believe that neither the tariff act nor the proclamation of the President violates the second article of the treaty, though my belief rests upon different ground to that on which the opinion of the President is based. The President seems to consider that since, by the concurring effect of the tariff law and his proclamation, Colombia receives the same treatment as other nations, there is no conflict between the treaty stipulation and the ultimate action of the law. I beg, however, to submit that there is a very great difference between being placed among the most favored nations, as required by the treaty, and being classed among the most unfavored.

The article of the treaty under consideration in no way inhibits the Government of the United States from regulating its commerce with foreign nations and imposing duties on imports as it may deem fit. Neither does it stand in the way of exercising discrimination in this respect, since the article itself contemplates that such will at times be made, but the article requires that when in the exercise of this discrimination a concession may be freely granted to other nations it shall immediately become common to the other party. It is the refusal to carry out this stipulation when the case may present itself, and not the discriminating act itself, that would constitute a treaty violation. Had I protested, as I am represented to have done, against the tariff law and the proclamation of the President, as in violation of article 2 of the treaty of 1846, I could not have sustained the complaint, but I have protested in a subsequent note for noncompliance with the provisions of said article under the condition of things set forth in my note of the 25th of March.



Some of the reasons given in the note of the State Department dated the 31st of May, to justify the discrimination against Colombia in the matter of import duties, are founded on the difference existing between the relative position of Colombia and the nations designated in my note of the 25th of March. It is alleged that while all those nations favorably entertained the invitation of the President to enter upon reciprocity agreements, Colombia alone had not made a fitting response. This allegation can now no longer be upheld. The nations referred to have ultimately refused to enter into the agreements represented as in course of negotiation. They now stand in identical position with Colombia; yet they have not been proclaimed. That their tariffs were deemed by the President reciprocally unequal and unreasonable is demonstrated by the fact that those nations were invited to modify them and actually entertained the proposition.

It was stated as a further reason to justify the discrimination against Colombian produce that in the judgment of the President the duties imposed by Colombia on American products were higher than those levied in the countries mentioned in my note. With all due respect for the judgment of the President, I beg leave to assert that precisely the contrary happens to be the case. The tariff of Colombia is the lowest in all South American states. But, assuming it were otherwise, I will observe that neither by public law or treaty stipulations is the Government of Colombia in any way bound to admit imports from the United States at as low a rate of duty as they may be admitted in other countries.

Since there is no obligation on the part of Colombia to modify her tariff in order to adhere to the policy of the United States, none but licit measures and influences should have been brought to bear upon her Government to reach the desired result. Coercion was, however, resorted to, with the aggravated circumstance of having resorted to measures in violation of treaty stipulation. By article 5 of the treaty of 1846 it is expressly stipulated that neither contracting party should impose higher duties on the produce of the other than might be exacted on like articles of any other nationality.

I have gone into the examination of the note of the State Department of the 31st of May, 1892, because it contains the only arguments hitherto adduced for noncompliance with the demand contained in my note of the 25th of March, often before referred to. I believe I may venture to say there is not a single one of those arguments which is either sound or to the point, with reference to the question at issue. I am, therefore, justified in reiterating the demand for observance and compliance with article 2 of the treaty, and beg that measures may be taken at once to render its provisions effective.

Precedents in support of this request are too common to require exemplification. They will be found even in cases growing out of the reciprocity agreements under the present tariff law. So, when the German legation was addressed by the State Department, in common with others in Washington, with a view to carry into execution the duties devolving on the President under the third section of the tariff law of 1890, the correspondence resulted in Mr. Mumm, then acting chargé d'affaires, replying that since the German Empire would concede to the United States the same tariff advantages granted to Austria-Hungary and Italy by a treaty just then negotiated, they would be entitled to the advantages that might be conceded by the United States to other nations bearing on the reduction of import duties. I make this statement with due reserve as I am writing from memory,



but the arrangement was held to be based on the principle of the most favored nation clause.

So, also, in the negotiation carried on with Austria-Hungary, whose legation in Washington received the same circular that was sent to this legation, intimating the necessity of entering into a reciprocity agreement with the United States before the 15th of March, 1892, under penalty of the free importation of tea, sugar, coffee, and hides, the produce of the respective country, being suspended. I am credibly informed that the only action taken by the Austro-Hungarian Government was to declare the Government of the United States entitled to the most favored nation treatment in the Empire.

Minister Pitkin addressed the Government at Buenos Ayres on the 17th of September, 1891, opening negotiations. He intimated in the usual form that unless a reciprocity agreement, based on tariff concessions in favor of American merchandise, were entered into, the free importation of hides from Buenos Ayres into the United States would be suspended.

Mr. Pitkin's note was answered by Mr. Zevallos, the minister of foreign affairs, on the 24th of December, 1891, claiming the right of hides from Buenos Ayres to free importation into the United States in virtue of the most-favored-nation clause existing in the treaty in force between the two countries, and intimating that the imposition of import duties on hides arriving from Buenos Ayres to this country would be followed by the imposition of higher duties on American produce imported into the Argentine Republic.

The result of this exchange of notes has been that hides from the Argentine Republic are freely imported into this country.

Ample proof will be found in the notes of Minister Pitkin to Señor Zevallos, that the President deemed the tariff of the Argentine Republic reciprocally unequal and unreasonable, and, notwithstanding that the Argentine Government made no tariff concessions to the United States, the free importation of hides from Buenos Ayres has not been suspended. I can not for a moment suppose that this is due to the intimation that the Argentina would retaliate if her products were taxed on entering this country; and I must, therefore, conclude that the exemption from duty accorded to them is in compliance with the provisions of the most favored nation clause which Mr. Zevallos contended was applicable to the case.

Before bringing this communication to an end, I beg leave to again solicit your earliest convenient attention to its contents, with a view to procure a remedy for the evils which the existing condition of things causes to our trade with the United States.

I avail, etc.,

J. M. HURTADO.

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*Mr. Gresham to Señor Hurtado.*

DEPARTMENT OF STATE,  
Washington, October 10, 1893.

MY DEAR MR. HURTADO:

If convenient to you, I shall be greatly obliged if you will call at the Department to-morrow, Wednesday, the 11th instant, any time between 10 and 11 o'clock in the morning, for a conference in relation to your note of October 5, 1893.

Very truly, yours,

W. Q. GRESHAM.

*Señor Hurtado to Mr. Gresham.*

LEGATION OF COLOMBIA,  
*Washington, October 31, 1893. (Received October 31.)*

SIR: Instructions which I have received subsequently to the conversation which I had the honor to have with you on last Thursday compel me to again earnestly call your attention to the contents of my note of the 5th instant with a view to reach a solution on the subject, at the earliest possible moment.

The request that the privileges gratuitously granted to the Argentine Republic, Mexico, and other countries, respecting the free importation of hides and coffee into the United States, be declared common to Colombia under the provisions of article 2 of the existing treaty of 1846, was put forth in my note to the State Department of the 25th March, 1892.

The demand was denied on the plea that arrangements looking to reciprocal tariff concessions in favor of articles of American growth and manufacture were then in course of negotiation between the United States and the countries I had named as receiving gratuitous concessions, and that Colombia, by refusing to enter into a similar agreement, debarred herself from the right to claim the same favorable treatment accorded to the countries I had referred to.

My Government did not admit the soundness of this conclusion. They contended that the character of a freely made concession was not altered by the mere expectation of a future and contingent compensation, dependent on the uncertain result of a pending negotiation. They further held that a public treaty is a law unto itself, and that conclusions derived therefrom respecting questions arising under the treaty can not be set aside by arguments and considerations taken from other sources, nor can one of the parties to a discussion claim any conclusion as established when based upon facts which the other party has no means of looking into and examining in a manner sufficient to ascertain the real worth and validity of the allegation.

The lapse of time has fully confirmed the correctness of the views expressed by my Government. It has since transpired that the negotiations carried on with Mexico and Argentine, however promising they may have appeared at the time, were not productive of any result and have been abandoned without any intention of being resumed.

The plea, therefore, on which was based the refusal to comply with the just demands of my Government has vanished like a shadow, without leaving anything behind for ulterior consideration, while the request itself remains supported by the provision of the treaty in pursuance to which it was preferred without any obstacle or hindrance standing in the way to oppose it save the force of inertia which, I respectfully submit, it is the bounden duty of your Government to forthwith proceed to remove.

The method generally followed by governments in dealing with a case of this kind is to declare that the government legitimately claiming the enjoyment of favors granted to other countries is entitled to equal treatment with the most favored nation, whereby the corresponding treaty provision at once becomes operative. It is not my intention, nor would I venture, to suggest a course to be adopted, under the circumstances, by the Government of the United States. My remarks have only in view to establish this inference: That in the treaty of 1846, between the United States of America and Colombia it was intended that an equally expeditious and simple method to the one gen-



erally followed and above alluded to should be adopted whenever the opportunity might occur, to put in motion the provision of article 2 of the treaty. For, the stipulation provides that grants freely made to third nations by one of the contracting parties shall *immediately* become common to the other party, which could not be accomplished if a dilatory process in giving effect to the clause were resorted to.

The element of time is an essential condition to the fulfillment of the treaty provision under examination. Delay in rendering this condition effective would in any event constitute an infringement of the treaty. In the case under consideration, the infraction does not limit itself to a mere violation of the text; its disastrous effects on the trade of the two countries, which the treaty was intended to foster and promote, renders the breach repugnant to the spirit of the treaty and the injury it inflicts on Colombian interests imparts to it the character of a tortious act.

I have recently received several letters from merchants engaged in business with Colombia, who concur in stating that the imports of coffee are now less than one-third of the quantity introduced into this country previous to the 15th of March, 1892, when the article was subjected to duty. This estimate is corroborated by other trustworthy sources. The great decrease in the importation of the chief staple shipped from Colombia in payment of American exports has caused the rate (in Colombia) of exchange on the United States to rise to 10 per centum, over and above parity with Europe. This abnormal difference in the exchange represents a loss which falls on the Colombian consumer of American exports; nor can this loss disappear before (and it will disappear immediately after) the removal of the differential duty to which Colombian produce is subjected.

The letters above referred to are from merchants either expecting shipments of coffee from Colombia, or who hold the article in bond, under conditions that will compel them to reship it to other markets, if it can not be introduced free of duty into this country. They address themselves to this legation, in quest of information regarding the early removal of the duty, and complain of the hardships imposed upon them under existing circumstances, which destroy their business, obliging them to part with property the proceeds of which should be applied either to payment of their credits or invested by them in the purchase of merchandise, thus depriving them of profits and commissions that should accrue to them in the course of their business, and otherwise injuring their interests.

I am not in a position to convey to the writers of the letters any positive assurance of immediate relief; but I deem it my duty to earnestly invoke your attention, while submitting to your consideration, that since it can not be denied that whenever under the existing position of things a duty be levied on Colombian coffee or hides, entering the United States, or the same be reexported to avoid the payment thereof; each and every case so occurring involves a treaty violation; measures should at once be taken to prevent, in future, the consummation of the wrongful act.

It is not, Mr. Secretary, without regret and the fear of being considered importunate that I again address you on a subject that has been sufficiently discussed to leave no room for doubt concerning it, and to which you have, but lately, verbally assured me that you would give your earliest possible attention.

But I could not do otherwise in view of recent instructions; nor, I venture to hope, will the urgency manifested by my Government be looked



upon as unreasonable, when it be considered that their request for compliance with an obvious treaty stipulation has been kept pending for a period of over nineteen months without proper grounds to justify so protracted a delay. The fact should not be lost sight of that as time passes the wrong complained of is repeated, and its evil effects on our commerce are intensified. It is not, therefore, a remedy for the past that I am at present recommended to seek; my endeavors are directed to obtain a preventive for the future. It is only on the last point that immediate action is asked for; and my Government, relying on the high sense of justice of that of the United States, trusts that, although their just demands have hitherto remained virtually unheeded, they will now no longer be disregarded.

Accept, etc.,

J. M. HURTADO.

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*Mr. Blaine to Mr. Price.*

DEPARTMENT OF STATE,  
Washington, January 7, 1892.

SIR: I am directed by the President to again bring to your attention the provisions of the tariff law of the Congress of the United States approved October 1, 1890, in which provision was made for the admission into the United States free of all duty of the following articles, to wit, all sugars not above No. 16 Dutch standard in color, molasses, coffee, tea, and hides. In section 3 of this law it is declared that these remissions of duty were made "with a view to secure reciprocal trade with countries producing" those articles, and it provided that—

On and after the 1st day of January, 1892, whenever and so often as the President shall be satisfied that the Government of any country producing and exporting sugars, molasses, coffee, tea, and hides, raw and uncured, or any of such articles, imposes duties or other exactions upon the agricultural or other products of the United States which, in view of the free introduction of such sugar, molasses, coffee, tea, and hides into the United States, he may deem to be reciprocally unequal and unreasonable, he shall have the power, and it shall be his duty, to suspend by proclamation to that effect the provisions of this act relating to the free introduction of such sugar, molasses, coffee, tea, and hides, the production of such country, for such time as he shall deem just, and in such case and during such suspension duties shall be levied, collected, and paid upon sugar, molasses, coffee, tea, and hides the product of or exported from such designated country,

at the rates set forth in said section 3.

I am further directed by the President to inform you that, in view of the free introduction into the United States of the articles named, the product of Haiti, he deems the duties imposed upon the agricultural and other products of the United States on their introduction into Haiti, to be reciprocally unequal and unreasonable, and that unless on or before the 15th day of March next some satisfactory commercial arrangement is entered upon between the Government of the United States and the Government of Haiti, or unless some action is taken by the latter Government whereby the unequal and unreasonable state of the trade relations between the two countries is removed, the President will, on the date last named, issue his proclamation suspending the provisions of the tariff law cited relating to the free introduction of such sugar, molasses, coffee, tea, and hides the production of Haiti, and during such suspension the duties set forth in section 3

of said law shall be levied, collected, and paid upon sugar, molasses, coffee, tea, and hides the product of or exported from Haiti.

In asking you to transmit to your Government the foregoing information I beg to repeat the assurances given in my note to you of January 3, 1891, and repeated to your Government at various times since that date by the minister of the United States resident in Port au Prince, that the Government of the United States is earnestly desirous of maintaining with the Republic of Haiti such trade relations as shall be reciprocally equal and mutually advantageous, and to express the hope that before the date fixed in this note an equitable and satisfactory arrangement to regulate the commerce between the two countries may be reached.

Accept, etc.,

JAMES G. BLAINE.

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*Mr. Price to Mr. Blaine.*

[Translation.]

LEGATION OF HAITI,  
New York, January 13, 1892. (Received January 20.)

MR. SECRETARY OF STATE:

I have the honor to acknowledge the receipt of your note of the 7th instant whereby you again call my attention to the act of Congress approved October 1, 1890, in which provision is made for the admission of the following articles: All sugars not above No. 16, Dutch standard in color, molasses, coffee, tea, and hides on certain conditions which are stated in your note.

You inform me at the same time that, in view of the free introduction into the United States of the articles named, the product of Haiti, his excellency, the President of the United States, deems the duties imposed upon the agricultural and other products of the United States on their introduction into Haiti to be reciprocally unequal and unreasonable; and that, unless on or before the 15th day of March next, some satisfactory commercial arrangement is entered upon between the Government of Haiti and the Government of the United States, or unless some action is taken by my Government whereby the state of the trade relations between the two countries (which is considered by his excellency, the President of the United States, as being unequal and unreasonable) is remedied, his excellency, in pursuance of the act of Congress of October 1, 1890, will issue a proclamation on the aforesaid 15th of March next, suspending the free admission of the aforementioned articles, the production of Haiti, and that during such suspension the said articles shall be subject to the import duties set forth in section 3 of said act.

I have hastened to transmit this important communication to my Government, and I have not failed to apprise it of the desire which you have the kindness to express, in the name of the United States Government, viz, that such trade relations may be maintained by the United States with the Republic of Haiti as shall be reciprocally equal and mutually advantageous.

Be pleased to accept, etc.,

HANNIBAL PRICE.

*Mr. Wharton to Mr. Price.*DEPARTMENT OF STATE,  
*Washington, March 22, 1892.*

SIR: I have the honor to inclose herewith a half dozen printed copies of the President's proclamation of the 15th instant, suspending the free admission into the United States of certain articles the production of the Republic of Haiti.

Accept, etc.,

WILLIAM F. WHARTON,  
*Acting Secretary.*

[A proclamation suspending the free admission into the United States of sugar, molasses, coffee, tea, and hides, the production of Hayti.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

### A PROCLAMATION.

Whereas in section 3 of an act passed by the Congress of the United States entitled "An act to reduce the revenue and equalize duties on imports, and for other purposes," approved October 1, 1890, it was provided as follows:

"That with a view to secure reciprocal trade with countries producing the following articles, and for this purpose, on and after the first day of January, eighteen hundred and ninety-two, whenever, and so often as the President shall be satisfied that the Government of any country producing and exporting sugars, molasses, coffee, tea, and hides, raw and uncured, or any of such articles, imposes duties or other exactions upon the agricultural or other products of the United States, which in view of the free introduction of such sugar, molasses, coffee, tea, and hides into the United States he may deem to be reciprocally unequal and unreasonable, he shall have the power and it shall be his duty to suspend, by proclamation to that effect, the provisions of this act relating to the free introduction of such sugar, molasses, coffee, tea, and hides, the production of such country, for such time as he shall deem just, and in such case and during such suspension duties shall be levied, collected, and paid upon sugar, molasses, coffee, tea, and hides, the product of or exported from such designated country" the duties hereinafter set forth:

And whereas it has been established to my satisfaction, and I find the fact to be, that the Government of Hayti does impose duties or other exactions upon the agricultural and other products of the United States, which in view of the free introduction of such sugars, molasses, coffee, tea, and hides into the United States, in accordance with the provisions of said act, I deem to be reciprocally unequal and unreasonable:

Now, therefore, I, Benjamin Harrison, President of the United States of America by virtue of the authority vested in me by section 3 of said act, by which it is made my duty to take action, do hereby declare and proclaim that the provisions of said act relating to the free introduction of sugars, molasses, coffee, tea, and hides, the production of Hayti, shall be suspended from and after this fifteenth day of March, 1892, and until such time as said unequal and unreasonable duties and exactions are removed by Hayti and public notice of that fact given by the President of the United States, and I do hereby proclaim that on and after this fifteenth day of March, 1892, there will be levied, collected, and paid upon sugars, molasses, coffee, tea, and hides, the product of or exported from Hayti, during such suspension, duties as provided by said act as follows:

All sugars not above number thirteen Dutch standard in color shall pay duty on their polariscopic tests as follows, namely:

All sugars not above number thirteen Dutch standard in color, all tank bottoms, sirups of cane juice or of beet juice, melada, concentrated melada, concrete and concentrated molasses, testing by the polariscope not above seventy-five degrees, seventenths of one cent per pound; and for every additional degree or fraction of a degree shown by the polariscopic test, two-hundredths of one cent per pound additional.

All sugars above number thirteen Dutch standard in color shall be classified by the Dutch standard of color, and pay duty as follows, namely: All sugar above number thirteen and not above number sixteen Dutch standard of color, one and three-eighths cents per pound.



All sugar above number sixteen and not above number twenty Dutch standard of color, one and five-eighths cents per pound.

All sugars above number twenty Dutch standard of color, two cents per pound.

Molasses testing above fifty-six degrees, four cents per gallon.

Sugar drainings and sugar sweepings shall be subject to duty either as molasses or sugar, as the case may be, according to polariscopic test.

On coffee, three cents per pound.

On tea, ten cents per pound.

Hides, raw or uncured, whether dry, salted, or pickled, Angora goatskin, raw, without the wool, unmanufactured, asses' skins, raw or unmanufactured, and skins, except sheepskins, with the wool on, one and one-half cents per pound.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this fifteenth day of March, one thousand eight hundred and ninety-two, and of the Independence of the United States of America the one hundred and sixteenth.

[SEAL.]

By the President:

BENJ. HARRISON.

WILLIAM F. WHARTON,

*Acting Secretary of State.*

*Mr. Hurst to Mr. Wharton.*

[Translation.]

LEGATION OF HAITI,

*New York, March 24, 1892. (Received March 25.)*

MR. ASSISTANT SECRETARY OF STATE:

I have the honor to acknowledge your letter of the 22d instant, and from its inclosure I have taken six printed copies of the proclamation of His Excellency the President of the United States, declaring the suspension of free entry into the United States of the productions of Haiti, such as coffee, tea, sugar, molasses, and hides.

Accept, etc.,

JOHN HURST,  
*Chargé d'Affaires.*

*Mr. Blaine to Señor Bolet-Peraza.*

DEPARTMENT OF STATE,

*Washington, January 7, 1892.*

SIR: I am directed by the President to again bring to your attention the provisions of the tariff law of the Congress of the United States, approved October 1, 1890, in which provision was made for the admission into the United States, free of all duty, of the following articles, to wit: All sugars not above No. 16 Dutch standard in color, molasses, coffee, tea, and hides. In section 3 of this law, it is declared that these remissions of duty were made "with a view to secure reciprocal trade with countries producing" those articles, and it is provided that—

On and after the 1st day of January, 1892, whenever, and so often as the President shall be satisfied that the Government of any country producing and exporting sugars, molasses, coffee, tea, and hides, raw and uncured, or any of such articles, imposes duties or other exactions upon the agricultural or other products of the United States, which, in view of the free introduction of such sugar, molasses, coffee,

tea, and hides into the United States, he may deem to be reciprocally unequal and unreasonable, he shall have the power, and it shall be his duty, to suspend by proclamation to that effect, the provisions of this act relating to the free introduction of such sugar, molasses, coffee, tea, and hides, the production of such country, for such time as he shall deem just, and in such case and during such suspension duties shall be levied, collected, and paid upon sugar, molasses, coffee, tea, and hides, the product of, or exported from, such designated country,

at the rate set forth in said section 3.

I am further directed by the President to inform you that in view of the free introduction into the United States of the articles named, the product of Venezuela, he deems the duties imposed upon the agricultural and other products of the United States, on their introduction into Venezuela, to be reciprocally unequal and unreasonable, and that, unless on or before the 15th day of March next, some satisfactory commercial arrangement is entered upon between the Government of the United States and the Government of Venezuela, or unless some action is taken by the latter Government whereby the unequal and unreasonable state of the trade relations between the two countries is removed, the President will, on the date last named, issue his proclamation suspending the provisions of the tariff law cited relating to the free introduction of such sugar, molasses, coffee, tea, and hides, the production of Venezuela, and during such suspension the duties set forth in section 3 of said law shall be levied, collected, and paid upon sugar, molasses, coffee, tea, and hides, the product of or exported from Venezuela.

In asking you to transmit to your Government the foregoing information, I desire to repeat the assurance, which has been given to you and to your Government at various times since the enactment of the law cited, of the earnest desire of this Government to maintain with Venezuela the most intimate and friendly trade relations, and to express the hope that you may yet be empowered by your Government to enter with me upon a commercial arrangement reciprocally equal and mutually advantageous.

Accept, etc.,

JAMES G. BLAINE.

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*Señor Bolet Peraza to Mr. Blaine.*

[Translation.]

LEGATION OF THE REPUBLIC OF VENEZUELA,

Washington, January 11, 1892. (Received January 11.)

SIR: I have the honor to acknowledge the receipt of your excellency's note of the 7th instant, wherein you are pleased to reiterate your mention of the provisions contained in the tariff law of October 1, 1890 (section 3), whereby the President of the United States was authorized to conclude with countries that produce sugar, molasses, coffee, tea, and hides treaties of reciprocity granting exemption from duties to those articles when imported into the United States. At the same time your excellency was pleased to notify me, in order that I might inform my Government, that the President of the United States will, on the 15th day of March next, issue the proclamation referred to in the aforesaid third section of the tariff law, declaring subject to

import duties the aforesaid articles from countries which at that date shall not have concluded any reciprocity treaty with the United States. According to the desire expressed by your excellency I have transmitted to my Government the contents of the note to which I have the honor to refer, so that it may be filed among the papers relative to the negotiations on the subject which are going on at Caracas with the representative of the United States.

With sentiments, etc.,

N. BOLET PERAZA.

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*Señor Bolet-Peraza to Mr. Blaine.*

[Translation.]

LEGATION OF THE REPUBLIC OF VENEZUELA,  
*Washington, February 11, 1892. (Received February 11.)*

SIR: I have received from my Government a reply to the communication with which I transmitted to it your excellency's note of the 7th of January last, whereby your excellency was pleased to notify this legation that the U. S. Government had determined to name the 15th of March next as the limit of the term granted for the conclusion of treaties of commercial reciprocity, to which reference is made in the tariff law now in force in this Republic.

My Government has taken note of that determination, and again instructs me to inform your excellency that ever since the U. S. Government proposed the conclusion of such a treaty it has been endeavoring to overcome the various difficulties to which the matter gave rise, having to that effect solicited the wise and energetic action of the National Congress, which body, in its carefully prepared and judicious reply to the President's message, pointed out the various obstacles that lay in the way of the conclusion of a treaty that should not seriously impair the principal source of income of the public treasury, and that should not give rise to annoying difficulties with those countries which, in virtue of special treaties, have a right to expect for their agricultural or manufactured productions advantages similar to those which may be granted by Venezuela to the merchandise of any other nation.

My Government, however, being actuated by the best wishes to accept the invitation of that of the United States, has opened negotiations with Mr. Scruggs, and has appointed Don Vicente Coronado, the minister of finance, as a special delegate to conduct said negotiations, whereby it has sought not only to facilitate the settlement of the matter by reason of its relation to the fiscal branch of the Government, but also to give evidence of its desire for the conclusion of the treaty on lasting principles, as must be those which shall in all respects conform to the only conditions of existence in Venezuela of the national treasury.

The negotiations commenced with Mr. Scruggs have not yet led to the desired result, although this does not imply that (when the matter shall again come before the ministry of foreign relations, owing to the minister of finance's resignation of the office of special delegate, for the reason that he is obliged to take part in the deliberations of the next Congress) the conferences may not be continued until a treaty is concluded, before the 15th of March, whereby satisfactory provision will be made for the commercial interests of both countries.



I am happy to be able to make to your excellency the foregoing statement of the efforts of my Government in this matter, in which it has been inspired by the most earnest desire that its relations with the United States may constantly become more cordial and more firmly cemented.

With sentiments, etc.

N. BOLET-PERAZA.

*Mr. Blaine to Señor Bolet-Peraza.*

DEPARTMENT OF STATE,  
Washington, February 15, 1892.

SIR: I have the honor to acknowledge the receipt of your note of the 11th instant, concerning the subject of commercial reciprocity, and to say in reply that it is earnestly hoped that the expectation indicated in your note that a satisfactory arrangement may be entered into with our minister at Carácas before March 15 next, may be realized.

Accept, etc.,

JAMES G. BLAINE.

*Mr. Wharton to Señor Bolet-Peraza.*

DEPARTMENT OF STATE,  
Washington, March 22, 1892.

SIR: I have the honor to inclose herewith a half dozen printed copies of the President's proclamation of the 15th instant, suspending the free admission into the United States of certain articles the production of the Republic of Venezuela.

Accept, etc.,

WILLIAM F. WHARTON,  
*Acting Secretary.*

[A proclamation suspending the free admission into the United States of sugar, molasses, coffee, tea, and hides the production of Venezuela.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

#### A PROCLAMATION.

Whereas in section 3 of an act passed by the Congress of the United States entitled "An act to reduce the revenue and equalize duties on imports, and for other purposes" approved October 1, 1890, it was provided as follows:

"That with a view to secure reciprocal trade with countries producing the following articles, and for this purpose, on and after the first day of January, eighteen hundred and ninety-two, whenever and so often as the President shall be satisfied that the Government of any country producing and exporting sugars, molasses, coffee, tea, and hides, raw and uncured, or any of such articles, imposes duties or other exactions upon the agricultural or other products of the United States which, in view of the free introduction of such sugar, molasses, coffee, tea, and hides into the United States, he may deem to be reciprocally unequal and unreasonable, he shall have the power and it shall be his duty to suspend, by proclamation to that effect, the provisions of this act relating to the free introduction of such sugar, molasses, coffee, tea, and hides the production of such country for such time as he shall deem just, and in such case and during such suspension duties shall be levied, collected, and paid upon sugar, molasses, coffee, tea, and hides the product of or exported from such designated country" the duties hereinafter set forth.

And whereas it has been established to my satisfaction, and I find the fact to be, that the Government of Venezuela does impose duties or other exactions upon the agricultural and other products of the United States which, in view of the free introduction of such sugars, molasses, coffee, tea, and hides in the United States, in accordance with the provisions of said act, I deem to be reciprocally unequal and unreasonable:

Now, therefore, I, Benjamin Harrison, President of the United States of America, by virtue of the authority vested in me by section 3 of said act, by which it is made my duty to take action, do hereby declare and proclaim that the provisions of said act relating to the free introduction of sugars, molasses, coffee, tea, and hides the production of Venezuela shall be suspended from and after this fifteenth day of March, 1892, and until such time as said unequal and unreasonable duties and exactions are removed by Venezuela and public notice of that fact given by the President of the United States; and I do hereby proclaim that on and after this fifteenth day of March, 1892, there will be levied, collected, and paid upon sugars, molasses, coffee, tea, and hides the product of or exported from Venezuela, during such suspension, duties as provided by said act as follows:

All sugars not above number thirteen Dutch standard in color shall pay duty on their polariscopic tests as follows, namely:

All sugars not above number thirteen Dutch standard in color, all tank bottoms, sirups of cane juice or of beet juice, melada, concentrated melada, concrete and concentrated molasses testing by the polariscope not above seventy-five degrees, seven-tenths of one cent per pound; and for every additional degree or fraction of a degree shown by the polariscope test, two hundredths of one cent per pound additional.

All sugars above number thirteen Dutch standard in color shall be classified by the Dutch standard of color and pay duty as follows, namely: All sugar above number thirteen and not above number sixteen Dutch standard of color, one and three-eighths cents per pound.

All sugar above number sixteen and not above number twenty Dutch standard of color, one and five-eighths cents per pound.

All sugars above number twenty Dutch standard of color, two cents per pound.

Molasses testing above fifty-six degrees, four cents per gallon.

Sugar drainings and sugar sweepings shall be subject to duty either as molasses or sugar, as the case may be, according to polariscopic test.

On coffee, three cents per pound.

On tea, ten cents per pound.

Hides, raw or uncured, whether dry, salted, or pickled, Angora goat skins, raw, without the wool, unmanufactured, asses' skins, raw or unmanufactured, and skins, except sheepskins, with the wool on, one and one-half cents per pound.

It witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this fifteenth day of March, one thousand eight hundred and ninety-two, and of the Independence of the United States of America the one hundred and sixteenth.

[SEAL.]

BENJ. HARRISON.

By the President:

WILLIAM F. WHARTON,  
*Acting Secretary of State.*

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*Señor Bolet-Peraza to Mr. Wharton.*

[Translation.]

LEGATION OF THE REPUBLIC OF VENEZUELA,  
*Washington, March 25, 1892. (Received March 26.)*

SIR: With your excellency's letter of the 22d instant I have had the honor to receive six printed copies that your excellency was kind enough to inclose of the proclamation issued on the 15th of the present month by his excellency, the President, suspending the free entry into the United States of certain articles of Venezuelan origin.

With sentiments of the most distinguished consideration,

I am, etc.,

N. BOLET-PERAZA.





represented the opportunities of increasing our commercial relations in that quarter of the globe and by the circumstance that in the preceding year a naval officer of the United States, acting on his own responsibility, had entered into an agreement with the great chief of the Bay of Pago Pago whereby the latter, while professing his desire for the friendship and protection of the United States, granted to this Government the exclusive privilege of establishing in that harbor a naval station. In May, 1872, President Grant communicated this agreement to the Senate, saying that he would not hesitate to recommend its approval but for the protection to which it seemed to pledge the United States. It does not appear that the Senate took any action on the agreement.

After Steinberger had returned to the United States and made his report he was sent back to the islands to convey to the chiefs a letter from the President and some presents. Not long afterward strange rumors began to reach the United States from Samoa. Steinberger had set up a government in the group and was administering it, and it was said he had assured the natives that the islands were under the protection of the United States. Moved by these reports, the House of Representatives, on the 28th of March, 1876, adopted a resolution instructing the Committee on Foreign Affairs "to inquire into the extent and character of the power conferred by the United States upon A. B. Steinberger as special agent or commissioner to the Samoan or Navigators Islands," and to call upon the Secretary of State for all correspondence between the said Steinberger and the Department of State touching the object, operation, and result of such mission or agency.

On the 1st of May, 1876, Steinberger's instructions were communicated to the House of Representatives, together with the rest of the correspondence referred to in the resolution. In his general instructions allusion was made to the "commanding and particularly important" position of the Samoa group in the Pacific, but it was said to be "more than doubtful" whether this consideration would be sufficient to satisfy the people of the United States that the annexation of the islands was "essential to our safety and prosperity;" and it was declared to be inexpedient, without a "call from the public," for the Executive to originate a measure which was "adverse to the usual traditions of the Government," and which, therefore, probably would not receive such a sanction as would be likely to secure its success.

There was also a later instruction, specially referring to the report that Steinberger had promised the Samoans the protection of the United States, in which the Secretary of State said:

If this be as represented, it is much to be regretted, as no such promise was made, nor any hope of such protection was held out by warrant of this Government, and such promise, if made, was one which this Department, in the absence of a formal treaty, or of the sanction of Congress, had no right to authorize you to make.

Steinberger did not again officially return to the United States. As ruler of Samoa he fell into difficulties, and, with the concurrence of the American consul, who was in open conflict with him, he was deported on a British man-of-war. On March 18, 1876, the American consul transmitted to the Department of State a copy of what purported to be an agreement between the German house of Godeffroy & Son, of Hamburg, and Steinberger, entered into before the latter's return to Samoa, by which, in consideration of a commission, he engaged to exercise all his influence in Samoa, in any position he might occupy, for the furtherance of the German firm's trade.

Thus closed the first chapter in the history of our relations to Samoa, and of the attempt by such relations to extend our commerce and influence in that quarter of the globe.

In 1877 one Mamea was sent by the chiefs of Samoa to the United States as ambassador to conclude a treaty. In the same year a deputation of chiefs had proceeded to Fiji and made an unsuccessful application for annexation to Great Britain. The strifes and civil wars that had continuously prevailed in the islands for a number of years had led the people to fancy that they might find repose in annexation or protection by a foreign power. It is well known that Mamea came to the United States with a view to obtain at least the protection of this Government. In this mission he was unsuccessful. No disposition seems to have existed on the part of our Government to assume such a relation. But, if such a disposition had existed, the difficulty previously expressed still remained of satisfying the people of the United States that "their safety and prosperity" required the assumption of control over islands which were practically unknown to them, which were more than 4,000 miles distant from their shores, and with the possession and control of which their safety and prosperity had not in anywise been connected.

On January 16, 1878, there was concluded at Washington the treaty which, up to the ratification of the general act of Berlin twelve years later, contained the only formal definition of the relations of the United States to the Samoan group. By the second article of this treaty the Government of the United States was granted "the privilege of entering and using the port of Pago Pago, and establishing therein and on the shores thereof a station for coal and other naval supplies," and the Samoan Government engaged that it would thereafter "neither exercise nor authorize any jurisdiction within said port adverse to such rights of the United States or restrictive thereof." By the fifth article it was provided that—

If, unhappily, any differences should have arisen or shall hereafter arise between the Samoan Government and any other government in amity with the United States, the Government of the latter will employ its good offices for the purpose of adjusting those differences upon a satisfactory and solid foundation.

These are the only stipulations in the treaty that could serve to attract attention to it. The impression produced by a discriminating examination of them is that they were inspired rather by an amiable desire on the part of our Government not to appear to be wholly insensible to the friendly advances of the Samoans than by any supposition that the character of our relations to Samoa greatly concerned us. Indeed, it is quite clear that in the five years that had elapsed since Steinberger was first sent out to gather information in regard to the islands, the Government and people of the United States had made such small progress toward a conception of the importance of the group that, if the Samoans had not been incited by our local representatives to send an ambassador to Washington to obtain a treaty, none would have been made.

The way, however, was then open to form with Samoa any connection that our interests might seem to require. Intestine disorders, often culminating in civil war, had demonstrated the fact that unless the islands were to be abandoned to the rude and barbarous modes of life of the semicivilized and unorganized tribes that inhabited them, some kind of a strong central government must be established there. Indeed, it was apparent that such a government was required not only for the control of the natives, but also for the suppression of the mischievous plots and persuasions of the handful of adventurers who had found



their way thither from various foreign lands, and who, with the cooperation of their consular representatives, largely occupied themselves in stirring dissensions among the natives and in encouraging them to solicit from one foreign power or another either annexation or protection, whichever might be attainable.

Nevertheless, in 1878, the Government of the United States, though free to establish with Samoa such relations as our interests might seem to require, declined to assume even a protectorate.

Meanwhile certain events accentuated what had previously and has since been a marked feature of our relations to Samoa, namely, the disregard by our local representative at Apia of the distinctive national policy which our Government had pursued since the days of Washington and seemed desirous still to pursue. In 1877, and again in 1878, the flag of the United States was raised by different consular representatives of this Government at Apia as the sign of a protectorate. On neither occasion was the act sustained; but it thus appears that on three occasions in as many years this Government was compelled to renounce the unauthorized assumptions of its representatives in respect to that distant community.

On January 24, 1879, a treaty was concluded between Germany and Samoa, by which the latter Government conceded to the former a right to establish a naval station in the harbor of Saluafata, and engaged not to grant a similar right in that harbor to any other nation.

On the 28th of August in the same year a treaty was concluded between Great Britain and Samoa, by the eighth article of which a right was granted to Her Britannic Majesty's Government to establish "a naval station and coaling depot" on the shores of a Samoan harbor thereafter to be designated by Her Majesty, there being excepted from this right the harbors of Apia and Saluafata, and "that part of Pago Pago" which might thereafter be "selected by the Government of the United States as a station."

Passing over the history of the five ensuing years, the next chapter in the history of our relations to Samoa begins with the year 1885. In January of that year Dr. Stuebel, the German consul-general, took possession of all the land within the municipality of Apia, so far as the Samoan Government's sovereign rights in it were concerned, to hold it as security till an understanding with that Government should be arrived at for the protection of German interests. As a counter-demonstration the American consul, Greenebaum, raised the American flag and proclaimed a protectorate.

The situation thus created seemed to require the discharge by the United States of its obligation under the treaty of 1878 to employ its good offices in behalf of the Samoan Government. The phrase "good offices" is necessarily vague, and the circumstances show that it was not inserted in the treaty of 1878 for the purpose of involving the United States in the responsibilities of a protectorate. The inference is quite the reverse. But the situation existing in 1885 presented, as clearly as any situation could present, an occasion for the employment of good offices. Our ministers at London and Berlin were, therefore, instructed to say that the claim of an American protectorate over Samoa by the U. S. consul at Apia was wholly unauthorized and disapproved, no protectorate by any foreign power being desired; and to suggest that the British and German ministers at Washington be instructed to confer with the Secretary of State with a view to the establishment of order. This suggestion was accepted with the modification that, before the conference was held, each of the three Govern-



ments should send an agent to Samoa to investigate and report upon the condition of affairs in the islands.

This preliminary having been accomplished, a conference was held at Washington in June and July, 1887, between the Secretary of State and the British and German ministers. It was adjourned on the 26th of July, by unanimous consent, till the autumn, in order that the members might consult their respective Governments with a view to reconcile certain divergences of view which the discussions had disclosed. The German Government proposed in the conference a plan to commit the practical control of Samoan affairs to a single foreign official, called an adviser to the King, and to be appointed by the power having the preponderance of commercial interests. The plan proposed by the United States was to commit the administration of the laws to an executive council, to be composed of the Samoan King and vice-king and three foreigners, one of whom should be designated by each of the treaty powers, but who should hold their commissions and receive their compensation from the native Government so as to be independent of the influence and control of the powers designating them. It was also proposed that any arrangement that might be devised should be embodied by the powers in identic, but several and independent, treaties with Samoa.

Germany objected to the plan of the United States on the ground that it did not promise a solution of existing difficulties which were largely due to rival foreign interests. The British minister supported the German minister and, incidentally, the German plan.

Immediately after the adjournment of the conference, the German Government instructed its representative in Samoa to make a demand on Malietoa for reparation for certain wrongs alleged to have been committed by him and his people, all of which antedated the assembling of the conference, and, if he should be unwilling or unable to afford satisfaction, to declare war upon him "personally." War was declared, Malietoa was dethroned and deported, and Tamasese, who had sometime previously been vice-king but had lately been in arms against the Government, was installed as King, with a German named Brandis, who had long been connected with German commercial interests in Samoa, as adviser.

The understanding with which the conference was opened in 1887 was that, pending its deliberations, affairs in the islands should remain *in statu quo*. The adjournment of the conference till the autumn without dissent from any quarter was not considered by the United States to disturb that understanding, and the action of Germany seemed to involve a question of the consideration due to this Government. A situation wholly unanticipated and, in the opinion of this Government, wholly unnecessary was thus created; nor was it relieved by the fact that it was not without parallel in the history of nations whose policy had not preserved them from becoming involved in contests concerning remote and uncivilized lands. The United States had not consciously sought to participate in such a contest. It had merely endeavored to fulfill a treaty stipulation which required nothing more than friendly interposition. But our first adventure in that direction afforded most signal and convincing proof that the only safeguard against *all* the evils of interference in affairs that do not specially concern us is to abstain from such interference altogether.

In September, 1888, many of the natives revolted against the Government of Tamasese and chose Mataafa as King. The incidents of the ensuing war it is unnecessary now to recapitulate, but they served

to complicate a situation already sufficiently difficult. Much feeling was aroused, and an appropriation of half a million dollars was made by Congress for the protection of the interest of the United States. Our squadron in Samoan waters was reinforced, only to be destroyed later by a hurricane in the port of Apia. Nor was the tension relieved till February, 1889, when an agreement was reached for the renewal of the conference between the three treaty powers.

In reviewing this chapter in the history of our relations to Samoa, fraught with so much peril to our "safety and prosperity," we look in vain for any compensating advantage. So far as the departure from our early and conservative policy had produced any appreciable result, it had been one of unmitigated disadvantage. It certainly can not be maintained that the condition of the natives was improved by our interference. On the other hand, no interest of our own had been promoted. The whole trade of the islands is of small value, and of this only an insignificant part is with the United States. We have never found it to be necessary to interfere in the affairs of a foreign country in order to trade with it.

Our trade with Oceania amounts to forty million dollars a year, of which one-half is with British Australasia. Our trade with Samoa forms a scarcely appreciable part of the grand aggregate. In the year 1887, while we were exercising our good offices in behalf of the native Government and after our new policy had been in operation for nearly fifteen years, the reports for the consular district of Apia show that out of 229 merchant vessels that arrived there only 6 were American. Of these the aggregate tonnage was only 1,065 tons, or less than a fourth of that of single vessels in some of the fleets that ply weekly between our ports and those of Germany, the power with which we had fallen into serious contention. The cargoes imported by those 6 vessels were valued in the aggregate at less than \$60,000. Nor has our trade been increased by the relations that we have since assumed. Our consul at Apia stated in 1887 that the importations from the United States into that district in 1886 amounted in value to \$150,000. This is far more than the returns for any subsequent year disclose, the usual amount being little in excess of that of 1887, when not actually below it. The exports to the United States are scarcely appreciable. For the fiscal year ending June 30, 1892, their declared value was \$20,060.58, and of this sum \$18,750.65 represented the wreckage recovered from our naval vessels that were destroyed in the hurricane of 1889.

On June 14, 1889, there was concluded the general act of Berlin "for the neutrality and autonomous government of the Samoan Islands."

Before proceeding to the consideration of this treaty and of its results, it is proper to advert to the fact that in the instructions given our negotiators at Berlin it did not escape observation that our course toward Samoa had involved us in a departure from our established policy. It has already been shown that in the conference of 1887 the United States presented a plan to establish through identic, yet separate and independent, treaties with Samoa an executive council, to consist of the Samoan King and vice-king and three foreigners, one of whom should be nominated by each of the three treaty powers, but who should be appointed and paid by the native Government, in order that they might be independent of foreign influence. Referring to this plan, the instructions given by Mr. Blaine to our negotiators at Berlin on April 11, 1889, said:

This scheme itself goes beyond the principle upon which the President desires to see our relations with the Samoan Government based, and is not in harmony with



the established policy of this Government. For, if it is not a joint protectorate, to which there are such grave and obvious objections, it is hardly less than that, and does not, in any event, promise efficient action.

The general act of Berlin, after declaring the independence and neutrality of the Samoan Islands and stipulating for the provisional recognition of Malietoa Laupepa as King, provides for the establishment of a government.

Of this government the principal feature is a supreme court, which consists of one judge, styled chief justice of Samoa, who is nominated by the three treaty powers, or, if they can not agree, by the King of Sweden and Norway, and who is empowered to appoint a clerk and a marshal. The salary of the chief justice is fixed at \$6,000 a year in gold, to be paid the first year in equal proportions by the three treaty powers and afterwards out of the revenues of the Samoan Government, on which it constitutes a first lien, but with a provision that any deficiency shall be made good by the treaty powers. The clerk and the marshal are paid by fees.

The chief justice has jurisdiction both original and appellate, and his decisions are final. He has jurisdiction of all questions arising under the general act; of any question that may arise as to the election of a King or any other chief, or as to the validity of any powers claimed by such King or chief, and also of any differences that may arise between either of the treaty powers and Samoa. He has power to recommend the passage of laws. He has exclusive jurisdiction of all suits concerning real property in Samoa; of all suits between natives and foreigners or between foreigners of different nationalities; of all crimes and offenses committed by natives against foreigners, except minor offenses in the municipality of Apia; and he is empowered to adopt in his court, so far as applicable, and with such modifications as circumstances may require, the practice and procedure of common law, equity, and admiralty as administered in the courts of England.

In criminal cases he is authorized to impose, according to the crime, the punishment prescribed by the laws of the United States, of England, or of Germany, as he shall deem to be most appropriate, though in the case of native Samoans and other South Sea islanders he is authorized to follow the laws and customs of Samoa.

After the supreme court, the feature next in order is the local government provided for the municipal district of Apia, in which there are only about 170 electors. Of this government the principal organ is a municipal council, composed of six members and a president. The president, who is the chief executive of the district and who is also invested with the function of advising the King "in accordance with the provisions of the 'general act,' and not to the prejudice of the rights of either of the treaty powers," is selected through the instrumentality of those powers, and receives an annual compensation of \$5,000, paid the first year in equal shares by the treaty powers, and afterwards out of that portion of Samoan revenues assigned to the use of the municipality, upon which his salary is the first charge. The municipal council in turn appoints a municipal magistrate and necessary subordinate officers of justice and of administration within the municipality. But the orders passed by the municipal council have no effect till approved by the three foreign councils, or, if they fail to agree, by the chief justice.

In addition to these provisions for the permanent government of the islands, the general act provides for a land commission for the examination of claims and titles to lands, subject to the final jurisdiction of



the chief justice. It is provided that this commission shall consist of three persons, one to be named by each of the powers, and each to receive a compensation of \$300 a month and his reasonable fare to and from Samoa. Following the same rule it is provided that the reasonable and necessary expense of taking evidence and making surveys shall be borne by the three powers in equal proportions.

The general act further provides a system of revenue, consisting of import and export duties, capitation taxes on Samoans and colored plantation laborers other than Samoans, license taxes, and certain occasional duties.

It is obvious that the machinery thus devised for the government of the islands is inaccurately styled an "autonomous government." It is true that in the first article of the act the contracting parties declare that they "recognize the independence of the Samoan Government and the free right of the natives to elect their chief or King and choose their form of government according to their own laws and customs." This declaration, however, only adds force to the fact that we may look in vain in all the comprehensive framework of the treaty for a single provision that secures to the nominal and unsalaried King or to the natives either independence or any substantial part in the exercise of the executive, legislative, or judicial powers of the Government. All these powers are in reality discharged by foreign officials actually chosen by the treaty powers and backed up by their force and their funds. The so-called "autonomous government" is more than a joint protectorate. It is in substance and in form a tripartite foreign government, imposed upon the natives and supported and administered jointly by the three treaty powers. Such is the arrangement to which the United States, in the pursuit of its new policy, has committed itself for the purpose of securing the so-called neutrality of these distant islands.

In due time the Samoan Government gave its formal adherence to the treaty, and it was put into operation. An election of King by the so-called chiefs was held and resulted in the choice of Malietoa, of whom the powers had, however, already renewed their recognition.

Immediately difficulties were encountered in the administration of the new Government. It was found that, like its predecessors, it must encounter the inveterate reluctance of the natives to submit to a centralized government, or indeed to any government, as government is understood among civilized nations. They refused to heed the warrants of the supreme court, and it became necessary to invoke the assistance of a man-of-war for their enforcement. They also manifested, though not for the first time, an aversion to the payment of capitation taxes, and it became necessary to resort to coercive measures in order to collect them.

As early as 1891 some of the natives, under the lead of Mataafa, began to betray rebellious symptoms of even a more pronounced character. In a dispatch of December 6, 1892, Mr. Blacklock, the consul of the United States at Apia, in reporting upon the condition of affairs that had prevailed in the islands for a year prior to that date, said:

Ever since Mataafa's establishment at Malie he has endeavored to gather strength, and there is not the slightest doubt had he been successful in getting sufficient following he would have made war upon Malietoa; he has done every thing in opposing the Government except making war; he has defied its courts, obstructed its officials in the execution of their duties, harbored refugees from justice, succored and supported prisoners escaped from prison, and at the present moment is living in open defiance of the King and Government and all the laws of the country, keeping up an armed force and plundering foreigners' plantations for subsistence. Time and again

have white officials who went to Malie with warrants for the arrest of offenders been driven away by Mataafa's soldiers and warned against attempting any arrest under penalty of death.

This condition of things continued with increasing aggravation till July, 1893, when war actually broke out. The treaty powers were now compelled actively to intervene with their naval forces in order to keep Malietoa on the throne. In the end it became necessary to disperse the insurgents and to deport Mataafa and eleven other chiefs to another island, where they have since been kept at the joint expense of the three powers.

Meanwhile, both the chief justice and the president of the municipal council of Apia had become involved in various difficulties and had resigned. Their successors were duly appointed, the new chief justice being Mr. Henry C. Ide, a citizen of the United States, who had served as American member of the land commission. In this capacity Mr. Ide's services had been so satisfactory that he was appointed chief justice, with the ready concurrence of all the treaty powers. But the situation in which he found himself almost immediately after the assumption of the duties of his new office well illustrates the difficulties attending the administration of the Government under the treaty.

Mr. Ide arrived at Apia on the 3d of November last. On the 29th of January the consul of the United States reported that the condition of affairs had again become serious. "The municipality," said Mr. Blacklock, "has been full of armed natives, who congregated to protect the King and Government from attacks, and Mulinu'u, the King's headquarters, has been continually guarded by hundreds of these native warriors." Toward the end of March war again broke out, the rebels being under the leadership of Tamasese, who at one time held the office of King. Several battles took place to the west of Apia, and grave apprehensions were felt lest the territory of the municipality might become a battle ground. The Government, however, was so far victorious as to be able to effect an armistice, and in the meantime the treaty powers were called upon to send men-of-war to the islands. Such was the condition of affairs at the time of our last official advices from Apia.

Reference has already been made to the fiscal system embraced in the general act of Berlin. This is a subject that has continued to require the attention and the active cooperation of the treaty powers. By that act it is provided that all taxes collected in the municipal district of Apia shall belong to the municipality, and all taxes collected outside of that district to the Samoan Government. As most of the revenues have been derived from duties collected on imports and exports at Apia, the effect of this stipulation was to leave the Samoan Government without adequate means of support. The chief justice, Mr. Cedercrantz, sought to remedy this difficulty by deciding that all the customs revenue belonged to the Samoan Government. This decision the treaty powers, in view of the plain language of the general act, as well as of the fact that the decision threatened in turn to deprive the municipality of funds, found it necessary to hold to be "extrajudicial;" and an arrangement was effected by the foreign consuls, the chief justice, and the King by which it is provided that in case the revenues of the Government shall fall below a certain amount a portion of the import and export duties collected by the municipality shall be applied to make up the deficiency. The practical effect of this arrangement is yet to be demonstrated, and its operation will necessarily be affected by the condition of affairs in the islands and the ability to collect taxes from the



natives. Up to the present time the treaty powers have been compelled to continue their pecuniary support to their joint Government, not only in the execution of specific provisions of the general act, but also in the emergencies that have arisen in its enforcement.

Soberly surveying the history of our relations with Samoa, we well may inquire what we have gained by our departure from our established policy beyond the expenses, the responsibilities, and the entanglements that have so far been its only fruits. One of the greatest difficulties in dealing with matters that lie at a distance is the fact that the imagination is no longer restrained by the contemplation of objects in their real proportions. Our experience in the case of Samoa serves to show that for our usual exemption from the consequences of this infirmity, we are indebted to the wise policy that had previously preserved us from such engagements as those embodied in the general act of Berlin, which, besides involving us in an entangling alliance, has utterly failed to correct, if indeed it has not aggravated, the very evils which it was designed to prevent.

Respectfully submitted.

W. Q. GRESHAM.

DEPARTMENT OF STATE,  
May 9, 1894.

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CORRESPONDENCE BETWEEN THE DEPARTMENT OF STATE AND THE  
BRITISH EMBASSY.

*Sir Julian Pauncefote to Mr. Blaine.*

BRITISH LEGATION,  
Washington, June 30, 1890. (Received June 14.)

SIR: As you are doubtless aware, among other considerations in connection with giving effect to the final act of the conference on the affairs of Samoa, the question has arisen as to when the salary of the chief justice is to commence, and as to whether he should receive an allowance for outfit and passage money.

The article of the final act dealing with the appointment of the chief justice is silent upon these points, and they will have, therefore, to be settled by agreement between the three signatory powers.

In accordance with instructions which I have received from the Marquis of Salisbury, I have the honor to inquire what views the U. S. Government hold on this subject, and at the same time to suggest the adoption in the present instance of the rule followed by the foreign office in London in similar cases. Under this rule the salary commences ten days before the departure for his post of the person appointed.

As regards outfit and passage, Her Majesty's diplomatic and consular officers are entitled on first appointment to a sum amounting to a third of their salary by way of outfit, and to the cost of their own passage, with one servant, to their posts.

I am to add that Lord Salisbury, while considering that some such allowances should be granted to the chief justice of Samoa, does not desire to press this scale upon the U. S. Government in preference to that which may obtain in their own service.

I have, etc.,

JULIAN PAUNCEFOTE.



*Mr. Blaine to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, June 17, 1890.

SIR: I have the honor to acknowledge the receipt of your note of the 13th instant, in which you refer to the questions concerning the salary and allowances of the chief justice of Samoa, which arise, among others, in giving effect to the final act of the conference of Berlin on the affairs of Samoa.

It gives me pleasure to assent forthwith to the suggestion of the Marquis of Salisbury that the rule of the foreign office be adopted in the present instance, so that the salary of the chief justice shall commence ten days before the departure for his post of the person appointed.

As regards an allowance for outfit and passage to post of duty, I notice what you say respecting the British rule, which is to allow the officer, on his first appointment, a sum amounting to one-third of his salary by way of outfit, and the cost of passage of himself and one servant to his post. A similar rule formerly obtained in the diplomatic and consular service of the United States, but it has been abandoned for many years, and appointed officers are now allowed in lieu thereof salary during one month while receiving instructions before departure, and salary thereafter during the time of transit to their posts within a fixed maximum of time according to a proclaimed schedule.

In view, however, of the circumstances of the present case, the length and expense of the journey to Samoa, and the exceptional character of residence there for which due preparation should be made, I am quite in favor of adopting the English rule and to allow the appointed chief justice his outfit and passage as suggested, if the proposal be acceptable to the government of Germany.

Copy of this correspondence will be sent to the U. S. minister at Berlin for his information and such formal action there as may be necessary.

I have the honor, etc.,

JAMES G. BLAINE.

*Mr. Wharton to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, September 8, 1891.

SIR: I have the honor to acknowledge the receipt of your note of the 24th ultimo, in which are embodied certain suggestions made by Her Majesty's consul at Samoa, with the concurrence of the Samoan Government and the German vice-consul, for the capture of Mataafa and the disarmament of his troops. You state, in conclusion, that you have been instructed by Her Majesty's principal secretary of state for foreign affairs to inquire whether the U. S. Government have received any similar suggestion from their representative in Samoa, and, if so, what view they take of it.

In reply I have the honor to state that the advices received from our consul-general at Apia do not confirm the views of the German vice-consul as to the necessity of the extreme measures suggested. It is confidently believed by Mr. Sewall that the presence of a single ship of each of the powers and their joint representation to Mataafa and his followers would result in the restoration of order and confidence.

In view of the fact that there has been no outbreak or violence, the President deems the measures suggested by the German vice-consul to be altogether unjustifiable and likely to destroy all the good results anticipated and partly realized by the Berlin conference. The consul-general of the United States has made friendly and yet very decided representations to Mataafa as to the risk and folly of his course.

The United States and Germany have each a war vessel at Apia, and the presence of a British vessel would complete the naval representation of the powers.

Such joint naval representation of the powers would undoubtedly restore the order of things which the three powers established.

I have the honor, etc.,

WILLIAM F. WHARTON,  
*Acting Secretary.*

*Mr. Wharton to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
*Washington, September 18, 1891.*

SIR: I have the honor to acknowledge the receipt of your note of the 10th instant, wherein, under instructions of Her Majesty's Government, you invite an expression of the views of this Government as to the course which should be followed in the matter of certain expenses of the Samoan land commission, the chief justice and the commissioners not taking the same view as to what constitute such reasonable and necessary expenses. Your note incloses a memorandum upon the subject by Mr. Haggard, the British land commissioner, showing in detail his request.

In reply, I beg to state that before the receipt of your note this subject had been brought to the attention of the Government of the United States by the chargé d'affaires *ad interim* of Germany at this capital. On the 9th instant Mr. von Mumm's note was acknowledged to the effect that this Government concurred in the views of Her Majesty's Government, that the expenses set out in Mr. Haggard's memorandum were necessary to the due and proper performance of the duties of the commission. Concurrence was also given to the suggestion in Mr. von Mumm's note, that one person should be engaged by the commission, who, for a moderate compensation, shall perform the services of secretary and interpreter.

I may add further that Mr. Sewall, the consul-general of the United States at Apia, has been instructed to inform the chief justice that, in the opinion of this Government, the expenditures called for by Mr. Haggard's memorandum were reasonable and necessary and that it was willing to pay its share thereof. In the event of the chief justice withholding his approval after such representations by the consul-general, Mr. Sewall was authorized to pay one-third of such expenditures, provided the consular representatives of Great Britain and Germany were authorized to pay the shares of their respective governments under like instructions from each. This authority was given to the consul-general of United States in order to prevent the temporary stoppage of the labor of the land commission, which, by the terms of

the Berlin general act, must be closed in two years. In this connection, Mr. Sewall has also been instructed to second in every possible way the efforts of the chief justice in the direction of economy; but in the event of future expenditures failing to obtain the approval of the chief justice, if they shall seem to the consular representatives of the treaty powers to be absolutely necessary for the work of the commission, Mr. Sewall was directed to pay this Government's share of such expenses upon like authority being given to the representatives of Great Britain and Germany under similar circumstances from their respective governments.

I have, etc.,

WILLIAM F. WHARTON,  
*Acting Secretary.*

*Mr. Blaine to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
*Washington, October 28, 1891.*

SIR: I have the honor to transcribe a telegram of the 23d instant, which Mr. William Blacklock, the vice-consul-general of the United States at Apia, has forwarded to this Department. It reads as follows:

President of municipal council resigned October 5, owing to dispute with German member of council. Arranged to hand over funds to Weber. Consuls protested. President refuses to hand over money to consuls. Chief justice in Australia. Dispatches follow on 15th.

On the 26th instant I embodied the statements of this telegram in another to Mr. Phelps, the minister of the United States at Berlin, and directed him to represent the situation as one likely to produce embarrassment to the three powers in their efforts to promote the cause of good government in Samoa. He was also directed to represent the necessity of the equal share of the three powers in the financial administration during this temporary emergency.

I shall be glad to learn any steps Her Majesty's Government may have taken in the contingency.

I have the honor, etc.,

JAMES G. BLAINE.

*Sir Julian Pauncefote to Mr. Blaine.*

WASHINGTON, *December 7, 1891.*

SIR: With reference to previous correspondence on the subject of the disputes in the Apian municipality, and in accordance with instructions which I have received from the Marquis of Salisbury, I have the honor to inform you that Mr. Cusack-Smith, Her Majesty's consul at Apia, has been instructed by Her Majesty's Government to continue to pay taxes, etc., as heretofore, notwithstanding the refusal of the chief justice to do so.

I have, etc.,

JULIAN PAUNCEFOTE,



*Sir Julian Pauncefote to Mr. Blaine.*

WASHINGTON, *December 24, 1891.*

SIR: I have the honor, in obedience to instructions which I have received from the Marquis of Salisbury, to transmit to you copy of an instruction which has been addressed to Her Majesty's consul at Apia, relative to the currency question, together with copies of previous correspondence on the subject, as marked in the margin.

You will observe that Her Majesty's consul has been instructed to act with his German colleague in urging the Samoan Government to adopt the arrangements proposed by the municipal council of Apia, on the 3d of June and the 24th of July last, and Lord Salisbury has instructed me to request you, should you see no objection, to issue orders to the U. S. consular representative at Apia similar to those which have been sent to Her Majesty's consul.

I have, etc.,

JULIAN PAUNCEFOTE.

CORRESPONDENCE COMMUNICATED TO MR. BLAINE BY SIR J. PAUNCEFOTE, DECEMBER 24, 1891.

[Navigator Islands, September 21; confidential, 47; section 2.]

No. 1.

[Confidential.]

*Consul Cusack-Smith to the Marquis of Salisbury.*

No. 50.] SAMOA, *August 15, 1891.* (Received September 21.)

MY LORD: I have the honor to report that a certain amount of friction has arisen over the settlement under section 4, Article VI, of the Berlin treaty, as to what is to be the recognized equivalent of the United States dollar in the currencies.

The Samoan Government has wisely decided that the gold currencies of America and Great Britain shall be admitted as equal in value.

The silver money of the United States and Great Britain shall be the only silver currencies admitted.

All other currencies shall be expelled from Samoa.

Baron von Senfft, the advisor to the King, refuses to permit this decision of the Samoan Government to be considered law, but the Samoan Government have up to now stood firm.

Baron von Senfft gave the natives to understand that unless, according to his direction, the Samoan Government admitted the German silver marks, the German Government would retire from the Samoan treaty.

He did not use the exact words, but so the natives unfortunately understood him.

No doubt the question will be settled before I can write again, and with ordinary tact upon the part of Baron von Senfft no difficulty need have arisen.

I have, etc.,

T. B. CUSACK-SMITH.

[Navigator Islands, October 16; confidential, 52; section 1.]

No. 1.

*Consul Cusack-Smith to the Marquis of Salisbury.*

No. 52.] SAMOA, *August 31, 1891.* (Received October 16.)

MY LORD: With further reference to my No. 50 of the 15th instant, I have the honor to inform your lordship that, although the currency question is still awaiting final settlement, yet satisfactory progress has been made.

On the 12th of August the municipal council passed a resolution adopting the rate of exchange for gold coins fixed by the consuls in May, 1890, and admitting American,

Chilean, British, and German silver, which, however, was only to be legal-tender up to the amount of \$10.

This resolution would have enabled the German silver mark to flood the country, as it has done in Tonga, to the great inconvenience of all British traders.

I therefore proposed the following amendment at the consular board, and induced my German colleague to give it his support, and the consuls passed it unanimously:

"That the currency in use and the rates of exchange be for the present—

The United States gold coinage,

The British gold coinage, the sovereign to be equal to \$4.86 United States coin.

The German gold coinage, the 20-mark piece to be equal to \$4.76 United States coin.

Only United States silver and Chilean, at the rate of \$7 to the \$5 United States coin, to be accepted, and without limit.

That this met the difficulty, for the time being, at all events, is proved by the fact that the municipal council, with the sole exception of the president, were unanimous in adopting the amendment in lieu of their own resolution.

This rate of exchange is only for the purposes of all taxes and duties, etc., in the municipality, and does not interfere with the right of traders to employ any coinage most suitable to their requirements.

King Malietoa having, by letter to each of the consuls, complained of the action of Baron Senfft von Pilsach in refusing to accept the decision of the Samoan Government reported in my No. 50, and having asked our advice, we, in a joint letter on the 25th August, forwarded to the King a copy of the rates of exchange and the currencies adopted by the municipal council at the suggestion of the consular board. In this, as in all other matters, the consuls have worked together with the most perfect harmony and unanimity.

I have, etc.,

T. B. CUSACK-SMITH.

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[Navigator Islands, November 13; confidential, 67; section 1.]

## No. 1.

*Baron Senfft to the Marquis of Salisbury.*

APIA, October 13, 1891. (Received November 13.)

MY LORD: I have the honor to acquaint you that on the 5th of October I have tendered my resignation to King Malietoa, by whom I have been appointed as president of the municipal council of Apia on the 6th May of this year. Since in this capacity I had been agreed upon by the three powers signing the Berlin treaty I found myself obliged, when I took the aforesaid step, to ask the three respective governments for their approval and beg leave to submit herewith most respectfully such a request to your lordship.

At the beginning of the month of August I had occasion to draw King Malietoa's attention to some bad consequences which would occur if the King allowed irresponsible persons to induce him to take official measures. I got the impression that the King understood my advice, and under that impression I have continued my work.

On the 3d October I read in the local newspaper a correspondence between King Malietoa and a German member of the municipal council. By chance this was the same gentleman whose interference in government affairs had already caused the aforesaid advice on my part. The correspondence consisted of a letter from him dealing again with a matter concerning solely the Samoan Government, and of King Malietoa's answer. The answer was dated twelve days later than the letter, and concurred in the views of its writer. Before I read the correspondence I had no knowledge of it, although the letter addressed to the King interfered just in my official province, the financial administration, and although it contained personal attacks against my sense of duty.

It was the King himself who then, upon my request, confirmed that indeed the correspondence had taken place.

From this experience I could but arrive to three conclusions, which, at the same time, constituted as many reasons for my request of resignation: (1) No hope of succeeding in my official duties is left to me since I am convinced that King Malietoa does not comprehend the consequences of affording influence in official matters to irresponsible persons. These consequences must be the worse, the Berlin treaty not having furnished the King's advisor with any means to formally secure his cooperation, although such means would only be the equivalent of his responsibility. I hardly need to add that it could not be my task, especially in the first months of my service, to complete the treaty, with amendments, in order to strengthen my position.



(2) The same failure of success must arise for me out of the want of confidence the King has proved towards me in concealing the correspondence in question, notwithstanding several conferences he held with me during the respective time.

(3) A full and undamaged authority is not less indispensable for fulfilling the task imposed on my office by the Berlin general act than the King's confidence. The King himself having apparently damaged my authority, he can not repair the same without getting into a humiliating position on his part, which certainly will raise more harm than there exists already.

In connection with these considerations I can not forbear observing that, according to my opinion, experiences like the above stated would have been avoided if, in consequence of the common interest the treaty powers have in supporting the authority of my office, I had found the common assistance of the consular representatives in one case in which I required their common assistance more than ever. In that case I exerted myself to prevent an unequal action of the Samoan Government in regard to the commercial interests of the three treaty powers, and I believed that I was not at liberty to perform this duty of my office with less energy only because Germany, the interests of which were going to be neglected, is my native country. Your lordship will find the facts in question in the *mémoire* I have the honor to inclose herewith.

I have declared to King Malietoa as well as to the consular representatives of the treaty powers that I feel obliged to perform my official duties, inasmuch as the Berlin general act does not provide my representation therein, until I am allowed to lay down my position through a joint instruction of the three powers.

I shall be most thankful if this can be done telegraphically.

I also most respectfully ask your lordship to instruct me whether you wish me to call at the foreign office in returning to Germany.

I have, etc.,

FRIHR. SENFT VON PALSACH.

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[Inclosure in No. 1.]

*Memorandum.*

In a meeting of the municipal council of Apia, held on the 3d of June, the question was discussed how the troublesome state of different coin circulating in Samoa could be altered.

The Berlin treaty not having established a currency for Samoa, the coins of the three treaty powers, and besides the Chile silver, had been introduced, and the fluctuations of the silver value in the money market disturbed to a very disagreeable extent its fixation, and consequently the fixation of the prices of goods in the place.

The majority of the council being inclined to regard that body as competent for making a definite settlement of this affair, I pointed out that a settlement applying to the Samoan Islands could only be made by the Samoan Government.

I added, I had no doubt that, just in this question, the opinion of the municipal council at Apia, if communicated to the Government in the form of a request, would have a considerable weight for their decision, the council consisting mainly of merchants, and, consequently, of men possessing a particular knowledge of the matter.

The result of the discussion was a resolution saying that the council requested the Samoan Government to adopt the following rate of exchange for the country:

"One piece (\$5) United States currency gold to be equal to one English sovereign or to one 20-mark gold piece, and, for change, English silver to be taken only, and the Chile dollar as equal to 75 cents, (smaller coins in proportion); and that after the 15th of November next no Chile coin to be taken for taxes or duties by the treasurer."

This resolution having been submitted to the consular board, I was informed, by their letter dated the 9th of June, that the consular board suggest, as an amendment, "that the consideration of this resolution be deferred."

In their meeting of the 10th of June the municipal council did not accept this amendment.

I then referred the same, together with the above resolution, to the chief justice of Samoa.

By an accompanying letter, dated the 17th of June, I informed him "that the councillors were not unanimous in the question which kinds of money were admitted in the islands at present, but quite unanimously they regarded the concurrence of much different coins circulating here as a prejudicial one for the interests of the residents, therefore they would like to request the Government that one currency were fixed for the islands as soon as possible, and at the same time to make a proposal with a view to the settlement of this currency question."



On the 20th of June the chief justice decided "that the municipal council are at liberty to submit the above-mentioned resolution adopted by the council to the Samoan Government by way of a petition."

Only after having obtained this decision I considered myself in the position to deal with the matter in my capacity as adviser to the Samoan Government.

By letter dated the 26th of June I submitted the resolution of the municipal council in the form of a petition to the Samoan Government; but as no government office existed at that time except my office, the letter remained at first in my archives, since, before advising King Malietoa in the matter, I desired to ascertain the views of the chief justice.

In private interviews I had with him, his honor declared he was not convinced of the advantages of the arrangement requested by the municipal council; however, he did not intend to interfere in my action.

On the 24th of July I laid the petition of the municipal council of Apia before King Malietoa.

I advised the King to adopt the proposals made in the petition with the modification, however, that I recommended not to exclude the silver of the United States, and to authorize me to publish a corresponding notice in the newspaper.

I expressed my opinion that the lines to be observed by the treasurer in his receipts and disbursements would consequently be observed also in commercial transactions; that, therefore, no law, but only an order given to me by the King, would be required, and that such an order could be changed if necessary after three or six months.

In reply to my speech the King stated that he personally agreed to my proposal, but wanted the Faipule to be asked for their opinion. He said this would be only a formality, because the Faipule did not understand the question and would not make any objection; but on the other hand, if they would not be consulted, troubles might arise afterwards. My answer was: Generally it would not be wise to submit matters to the Faipule in which they were not competent to give a decision; nevertheless, I did not see a sufficient reason for objecting to the King's wishes.

Interpreter in this interview was the Rev. Arthur E. Claxton, member of the London Missionary Society.

On the following day a meeting of the Faipule was held in the presence of the King Malietoa and myself.

Having explained the matter, I urged the immediate approval of proposal. Some speakers answered, but wanted time for deliberation, saying they would let me know their decision within two days.

On the 27th July, in the evening, I received a letter from King Malietoa informing me that, with his assent, the Government resolved to admit after the 15th November, only the gold and silver coin of Great Britain and Ireland, and of the United States of America.

I regarded this resolution not to be binding, because I had not yet advised the Samoan Government in regard to such an engagement, nor had I set forth its possible consequences, and I had no doubt that this was an occasion which, according to the spirit and provisions of the Berlin general act, required my advice.

Therefore, in a meeting of the municipal council of Apia on the 28th July, being asked whether the currency question had been settled by the Government, I strictly denied that.

In this condition the matter remained some days.

On the 1st August, I received another letter King Malietoa addressed to the municipal council of Apia, repeating more formally the communication of the 27th July.

In the next meeting of the municipal council, which was held on the 5th August, a German member of the council, M. Grevsmühl, declared that the King took this step on his verbal request.

On Monday, the 3d August, I explained to King Malietoa again, in the presence of the Rev. A. E. Claxton, the reasons for my keeping secret both his letters. He then answered, he comprehended that I was right in acting as I did, and he approved that in another meeting of the Faipule I should try to make them recall their decision.

Before that meeting a conference took place on the 4th August between the three consular representatives and myself, at my request. I acquainted them with the state of the matter, and declared that I was anxious to know their opinion, whether they, like I, understood the clause contained in the Berlin general act under Article VI, section 4, as admitting all kinds of money in Samoa, unless an alteration would be made by the competent authorities, so that, for instance, the coin of one of the treaty powers could not be excluded by the Samoan Government without the previous assent of the three powers.

I understood that Her Britannic Majesty's consul, as well as the imperial German vice-consul, clearly expressed themselves in conformity with my interpretation of the treaty, whilst I did not ascertain the views of the U. S. vice-consul-general.

By the same opportunity Her Britannic Majesty's consul also stated that the municipal council of Apia was by no means entitled to issue any decision in the currency question; but, that this body ought to take part in its settlement, only in giving their opinion like a chamber of commerce.

On the 5th of August I made known to the municipal council in their meeting both letters I had received from King Malietoa, adding, at the same time, that the decision was not final; for since then the King had instructed me to deal with the matter in another meeting with the Faipule, which I was going to do in the afternoon.

In that meeting I made strong endeavors to convince the Faipule that under the Berlin treaty the Samoan Government was not at liberty to exclude the German coin from the islands altogether without the assent of the treaty powers. Moreover, I said it would be very unwise, especially in the present situation of the country, the Samoan Government would begin to alter the Berlin treaty from their part in neglecting in regard to one of the powers the equality of rights guaranteed in the treaty to all of them.

I acted so because I had not presumed for one moment the decisions of the King and the Faipule, communicated to me on the 27th of July, had arisen in the Samoan mind.

Finding myself suddenly placed in front of the uncontrollable influence of irresponsible persons advising the Government, I felt the more obliged to exert myself to overcome the same and to prevent its consequences.

The Faipule then again expressed their wish to deliberate on the matter in my absence and to let me know their decision afterwards.

I replied no new decision was required. I should be content if they would revoke the first one as being inconsistent with the Berlin treaty, and this they ought to do at once. Their repeated request for time for consideration I repeatedly declined to agree with, but, being unable to obtain a distinct answer, I finally left them, the King having stated that the meeting would be continued on the next day in my presence.

Before I returned on the following day, I received a letter from the King requesting me not to come, because the Government's members would consider the question privately and acquaint me with the result in a meeting to be held on the 7th August.

In that meeting the King declared that the Government were unwilling to revoke their first decision.

On the following day I advised King Malietoa to communicate the resolution of the Government to the consular representatives of the treaty powers. When I repeated that advice on the 11th August through the chief mamea (acting as interpreter), the King replied he had already informed the three consuls on the same day.

On the 7th August the Imperial German consul forwarded to me the German translation of a letter addressed by King Malietoa on the 6th August to each of the three consuls, and also the copy of Mr. Schmidt's English answer, dated the 14th August.

I learned from that correspondence that the King had asked the consuls whether some declarations I had made in the meeting of the Faipule were true or not, and that the imperial German vice-consul in his answer had ignored this question.

From the part of both the other consular representatives I have not received any information about their respective correspondence with King Malietoa. Only the King himself did show me their letters which also did not contain a reply to the King's question concerning my explanations.

Besides these, three letters furnished King Malietoa with the three different judgments in regard to the currency resolution of the Government. The German vice-consul stated that "the three consuls in a common meeting came to the conclusion that the decision of the Samoan Government is contrary to the treaty made at Berlin."

Her Britannic Majesty's consul stated he was "not at present prepared to object to" the same resolution; and the U. S. vice consul-general declared "he saw no reason to complain and had much pleasure in notifying the same resolution to his Government."

In the next meeting of the municipal council of Apia, on the 12th of August, I submitted to them the result of their petition.

The council then considered the decision of the Government would not come into operation before the 15th of November, and passed a resolution saying only that the last fixation of the rate of exchange, made by the consular board, 1890, should be binding by the municipal treasurer; but no payments in silver exceeding the amount of \$10 were to be admitted hereafter.

As an amendment to this resolution of the council, the consular board suggested that English and German silver should be excluded from the municipal treasury.

On the 20th August the municipal council accepted that amendment, I only objecting to the same, because, as I said, I was not aware that there was any authority in Samoa entitled to alter the Berlin treaty.

On the 27th August, I received from the Imperial German vice-consul a communication informing me that the three representatives, by common letter dated the 25th



August, had acquainted King Malietoa with the resolution of the municipal council accepting the aforesaid amendment of the consular board.

Whether they had taken this step on behalf of the municipal council, or in advising King Malietoa, I did not learn from the letter, but in both cases I found the representatives transacting the business of my office.

However, I have laid down my own opinion in the following clause of the quarterly report I have rendered to King Malietoa on the 8th September:

"There existed, and exists no doubt in my mind that according to Article I and Article VI of the Berlin general act, everybody in Samoa is allowed to pay his taxes with any coin which constitutes a part of the currency of a foreign country.

"This state of affairs could be altered, as far as I understood the aforesaid clauses in connection with Article VIII, section 1, of the treaty, by consent of the three powers concerning the coin of either of them, and by a law to be passed by the Samoan Government concerning the coin of any other foreign country.

FRIHR. SENFFT VON PILSACH.

APIA, October 13, 1891.

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[Navigators Islands, November 28.—Confidential, 79; section 2.]

### No. 1.

*Memorandum on the currency question in Samoa and the resignation of Baron Senfft von Pilsach. (Communicated by the German embassy, November 28.)*

[Translation.]

FOREIGN OFFICE, BERLIN,  
November 20, 1891.

During the time the three representatives of the treaty powers were administering provisionally the customs and taxes in Apia, a resolution of the consular court of last year fixed as follows the relative values of coins receivable under Article VI, paragraph 4, of the Samoan treaty, for the payment of customs duties and taxes, as compared with the denominations "dollars" and "cents" therein used, namely: 1*l.* = 4 dollars and 86 cents; 20 marks = 4 dollars and 76 cents; and 7 dollars Chilean currency = 5 dollars American currency.

On the 3d of June last the municipal council, on the motion of the president, resolved, in view of simplifying the accounts, to ask the Samoan Government to notify that the 1*l.* and the 20-mark piece should be taken to be of the same value as 5 dollars of the American currency, and to make English and Chilean coins alone receivable for the payment of customs duties and taxes, with the provision that Chilean silver coins should, on account of the considerable fluctuations in their value, be so receivable only up to November 15 of this year.

The consular court, to which this resolution was communicated for concurrence, was in favor of postponing a settlement of the matter. The municipal council, nevertheless, submitted the resolution to the chief justice for decision, in accordance with the Samoan treaty, and stated in the note submitting it that the members of the council were not quite unanimous on the question itself, but agreed that it was not to the interest of the inhabitants that coins of different values should be receivable.

The chief justice was, at the same time, requested to prepare a measure in this sense and to lay it before the King for sanction. Herr Cedercrantz rejected the request, but suggested that the municipal council should bring the resolution before the Government in the form of a petition. This was done on the 24th July, and Baron von Senfft advised the King to confirm the resolution, adding the provision that American silver should also be receivable for the payment of customs duties and taxes. The King agreed, but wished for form's sake to submit the matter for the decision of the Feipule (native council), who, he had no doubt, would make no objection.

On the 27th July Baron Senfft received from the King the surprising information that the Feipule had passed a resolution that, from the 15th November of this year, *English and American gold and silver coins* should alone be received into the public treasuries. Baron Senfft von Pilsach did not bring this resolution of the Feipule to the knowledge of the municipal council, assuming that the resolution in question was invalid, because he, as adviser of the King, had had no opportunity of explaining to the King the consequences it would have. At a meeting of the municipal council, which took place the next day, the chairman, in reply to a question put to



him on the subject by a member, stated that no final settlement of the currency question had yet been arrived at. Acting on the instigation of the German member of the municipal council, Herr Grevesmühl, who was accounted an opponent of the chairman, the King, with whom Herr Grevesmühl had had private communication, sent to Baron von Senfft on the 1st August a formal confirmation of the resolution adopted by the Government on the 27th July, which Herr von Pilsach again, and for the same motives as those given above, refrained from communicating to the municipal council. On the representations of Herr von Pilsach, who pointed out that, under Article VI of the treaty, the Government was not justified in adopting such a resolution without the sanction of the treaty powers, the King, Malietoa, declared himself ready to move the Feipule to cancel it. At a meeting of the consular court, Baron von Senfft gave an account of the circumstances of the case, and declared that, in view of the provisions of Article VI, paragraph 4, of the Samoan treaty, the resolution adopted by the Government, whereby German money was excluded, was invalid. The German and English representatives concurred in this view, but Mr. Blacklock, the American consul, expressed no opinion.

The Feipule did not cancel its resolution, notwithstanding Herr von Senfft's endeavors to induce it to do so. Malietoa informed the three consuls of this fact by identical notes, and inquired at the same time whether the conjecture of the chairman of the municipal council, that the resolution was opposed to the provisions of the Samoan treaty, were correct. The three consuls answered this note separately, and the German consul alone stated that the resolution which the Government had adopted was contrary to the provisions of the Samoan treaty. The English consul's answer avoided the point "that he was not at present prepared to object to the same resolution," and the American consul accepted the resolution, "no reason to complain." On the 12th of August the municipal council resolved that the rates mentioned at the commencement of the present paper, which had been established by the three consuls in 1890, should again be put in force for payments into the municipal treasury, but that no higher payment than \$10 might be made in silver. The consular court altered this resolution in the sense that German and English silver should not be received at all, but that American and Chilean silver should be received to an unlimited extent. The municipal council declared against Baron von Senfft's note, that they were agreeable to this arrangement, and in a joint note of the 25th of August the three consuls informed the King of this resolution. Baron von Senfft considered this direct communication on the part of the consuls as an encroachment on his rights, and on the 5th ultimo he placed in the King's hands his resignation of his post of chairman of the municipal council, adding that he would continue to discharge his functions until measures had been taken otherwise to provide for them.

Such renunciation of his post by himself alone remains inoperative so long as the authorities who appointed Baron von Senfft to the chairmanship of the municipal council do not accept it. He was appointed under an understanding with the treaty powers by the imperial chancellor, and the imperial chancellor thinks it desirable that, in the interest of peace and good order in the Samoan Islands, Baron von Senfft should remain at his post.

In support of his resignation Baron von Senfft alleges that he can not hope to do useful work at Apia now; that he no longer possesses the confidence of the King, who has publicly passed him over and followed the advice of irresponsible persons. He is convinced that this would not have happened had he found in the representatives of the three treaty powers the support he was entitled to expect.

In opposing the resolution adopted by the Samoan Government, whereby German currency was excluded from being used to pay customs duties and taxes, Baron von Senfft relied solely on the Samoan treaty (Article VI, section 4). The Imperial Government claims no manner of advantage in Samoa over the two other treaty powers, but they must decidedly oppose any such diminution of the rights secured to them by treaty as would be involved in the exclusion of German currency. The Imperial Government is convinced that the loyal observance of the provisions of the Samoan treaty by the representatives of the treaty powers will be successful in restoring peace and good order in Samoa. But in order to obtain this and it is, before all things, necessary that the representatives in question should not work one against another, but that they should, on the contrary, work together in the interests of peace, and should therefore support Baron von Senfft.

The latter's conception of his position must be modified in two directions. On the one hand, he is in error in denying to the consular court, when unanimous, the right of access to Malietoa. On the other hand, Baron von Pilsach must not judge of his position with Malietoa by that of a minister with an European King, and resign when he thinks that influence other than his own is prevailing. The chairman of the municipal council must not forget that he owes his appointment to the treaty powers.

[Navigators Islands, November 30; confidential, 80; section 1.]

## No. 1.

*Sir E. Malet to the Marquis of Salisbury.*

No. 221.]

BERLIN, November 28, 1891. (Received November 30.)

MY LORD: I have the honor to inform your lordship that, on receiving your lordships' dispatch No. 271 of the 18th instant, on the affairs of Samoa, I communicated the inclosures to Baron von Marschall, and requested his excellency to inform me as to his views upon Consul Cusack-Smith's reports and suggestions. I asked Baron von Marschall yesterday whether he had considered the matter, and he told me that he thought it was disposed of by the refusal of the governments to accept Freiherr Senfft von Pilsach's resignation. His excellency went on to say that, in his opinion, Mr. Cusack-Smith should have supported the president of the municipal council in his resistance to the decree forbidding the entry of German coinage, as such a decree was clearly a violation of the Samoan act. All that followed and the president's final resignation was due to want of support in this matter where he had a right to look for it—that was from the three consuls.

I asked Baron von Marschall what part of the Samoan act was violated by the decree in question. His excellency said that he could not without reference state the passage, but that he was informed by his legal advisers that Freiherr Senfft von Pilsach had acted strictly in accordance with the act in endeavoring to prevent the decree, and that he should have been supported by the consuls.

I have since examined the act, and the only passage I can find which may be held to bear on the point in question is the third section of Chapter III, end of second paragraph, where it is stated that the president shall not give advice to the prejudice of the rights of either of the treaty powers.

The opening declaration that the citizens and subjects of the three signatory powers have equal rights of residence, trade, and personal protection may, perhaps, be held to exclude the power of the King to prohibit the import of the currency of one of the signatory powers.

I have, etc.,

EDWARD B. MALET.

[Navigator Islands, December 5; confidential, 81; section 1.]

## No. 1.

*The Marquis of Salisbury to Consul Cusack-Smith.*

[Telegraphic, P.]

FOREIGN OFFICE, December 5, 1891—4:30 p. m.

You should unite with the German consul in urging the Samoan Government to take measures in accordance with the request of the municipal council of the 3d June and of the 24th July last respecting the currency question.

Her Majesty's minister at Washington will be instructed to urge the U. S. Government to issue similar directions to the American consul.

## No. 2.

*The Marquis of Salisbury to Consul Cusack-Smith.*

[Telegraphic, P.]

FOREIGN OFFICE, December 5, 1891—4:30 p. m.

Your dispatches respecting the resignation of Baron Senfft von Pilsach have been received.

The treaty powers have declined to accept his resignation, and the incident must be considered as closed.

Convey to the chief justice and to the president of the municipal council an expression of the hope of Her Majesty's Government that the three consuls and the European officials will all cordially cooperate in the interests of peace and good order and the successful carrying out of the Samoan act.



[Navigators Islands, December 8; confidential, 82; section 1.]

## No. 1.

*The Marquis of Salisbury to Sir E. Malet.*

No. 289.]

FOREIGN OFFICE, December 8, 1891.

SIR: With reference to your dispatch No. 221 of the 28th of November last, I transmit to your excellency herewith copy of a dispatch which I have caused to be addressed to Her Majesty's consul at Apia, instructing him to act with his German colleague in urging the Samoan Government to adopt the suggestions for the settlement of the currency question which were made by the municipal council of Apia on the 3d of June and 24th of July last.

I inclose also copy of further correspondence, as marked in the margin, relating to this question, and I have to request that you will communicate to the German Government the substance of the instructions which have been sent to Consul Cusack-Smith.

You should add that the U. S. Government will be urged to issue similar directions to their consular representative at Apia.

I am, etc.,

SALISBURY.

## No. 2.

*The Marquis of Salisbury to Sir J. Pouncefote.*

No. 269.]

FOREIGN OFFICE, December 8, 1891.

SIR: I transmit to you herewith copy of an instruction which I have caused to be addressed to Her Majesty's consul at Apia relative to the currency question, together with duplicate copies of previous correspondence on the subject, as marked in the margin.

You will observe that Mr. Consul Cusack-Smith has been directed to act with his German colleague in urging the Samoan Government to adopt the arrangements proposed by the municipal council of Apia on the 3d June and 24th July last.

I have to request that you will communicate the accompanying correspondence to the U. S. Government and urge them, if they see no objection, to issue instructions to their consular representative at Apia similar to those which have been sent to Her Majesty's consul.

I am, etc.,

SALISBURY.

## No. 3.

*Foreign office to Consul Cusack-Smith.*

[No. 28. Confidential.]

FOREIGN OFFICE, December 8, 1891.

SIR: Lord Salisbury has received and considered your dispatches Nos. 60, 61, and 62 of the 14th and 15th October last respecting the currency question in Samoa and Baron Senfft von Pilsach's resignation, and has been in consultation with the German Government upon the subject.

The main point at issue in this matter appeared to be the interpretation of section 4, Article VI, of the Samoan final act, which runs as follows:

"It is understood that 'dollars' and 'cents,' terms of money used in this act, describe the standard money of the United States of America, or its equivalent in other currencies."

Baron Senfft von Pilsach contends that, reading this in conjunction with Article I of the final act, which guarantees "to citizens and subjects of the three signatory powers equal rights of residence, trade, and personal protection," he was justified in resisting the decision come to by the Samoan Government on the 27th July last, by which German coin was excluded from reception at the public treasury in payment of dues and taxes. Such a decision, the president maintains, was invalid by reason of the fact that the actual state of affairs in regard to the currency can not be altered without the previous consent of the treaty powers.



The attitude thus assumed by Baron Senfft is indorsed by the German Government, who have informed Her Majesty's Government that they are decidedly opposed to any such diminution of the rights secured to them by treaty as would be involved in the exclusion of German currency from the Samoan Islands. There are technically cogent grounds for the view taken by the German Government.

I am, under these circumstances, to instruct you to act with your German colleague in urging the Samoan Government to adopt the suggestions for the settlement of the currency question which were made by the municipal council of Apia on the 3d June and 24th July last, and to take the necessary measures for giving effect to them.

I am to add that Her Majesty's minister at Washington will be requested to invite the U. S. Government to instruct their consular representative at Samoa in a sense similar to that of this dispatch.

Copies of communications received from Baron Senfft von Pilsach and the German Government upon this subject are annexed for your confidential information.

I am, etc.,

P. CURRIE.

No. 4.

*The Marquis of Salisbury to Baron Senfft von Pilsach.*

FOREIGN OFFICE, December 8, 1891.

SIR: Her Majesty's Government have had before them your letter of the 13th October in which you relate the circumstances connected with the currency question in Samoa which have induced you to tender your resignation of the post of president of the municipal council.

Instructions have been addressed to Mr. Consul Cusack-Smith which it is hoped will meet the necessities of the case, and you will doubtless have learnt from the German Government that the powers are not prepared to accept your resignation.

I am, etc.,

SALISBURY.

*Sir Julian Pauncefote to Mr. Blaine.*

WASHINGTON, January 27, 1892.

SIR: Her Majesty's Government has received a communication from the King of Samoa complaining that the adherents of the rebellious chief, Mataafa, are defying and obstructing the authority of the supreme court of Samoa at Malie, and requesting the assistance of the foreign men of war at Samoa with a view to enable the court to execute its warrants.

Lord Salisbury understands that a similar communication has been addressed to the U. S. Government by King Malietoa, and he is anxious to learn what view they take of the King's appeal and the nature of the instructions which they propose to send to their consul at Apia and the municipal president.

I have, etc.,

JULIAN PAUNCEFOTE.

*Sir Julian Pauncefote to Mr. Blaine.*

WASHINGTON, January 27, 1892. (Received January 27.)

SIR: I have the honor to inform you that after our interview on the 13th instant on the subject of the course to be adopted with reference to the conduct of the chief justice of Samoa in absenting himself without leave, I telegraphed to the Marquis of Salisbury your suggestion that the chief justice be called upon for an explanation by the three consuls at Samoa by order of their respective governments instead of through the King of Sweden.

I have now received a telegram from his lordship in reply, stating that this suggestion has been accepted by Her Majesty's Government and that of Germany, and informing me at the same time that Her Majesty's consul at Samoa has been instructed by telegraph to concert with his colleagues a joint note to the chief justice.

I have, etc.,

JULIAN PAUNCEFOTE.

*Mr. Blaine to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, January 29, 1892.

SIR: Referring to your note of the 27th instant, informing me that your Government had accepted my suggestion that the chief justice of Samoa should be called upon by the three consuls at Apia for an explanation of his course in having absented himself without leave, I have to inform you that the American consul has been instructed, by telegraph, in the sense of your note.

I have, etc.

JAMES G. BLAINE.

*Mr. Blaine to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, February 20, 1892.

SIR: I have the honor to acknowledge the receipt of your note of the 27th ultimo, relative to the communication received by Her Majesty's Government from the King of Samoa, and to say that this Government has received a similar communication from King Malietoa complaining that the adherents of the rebellious chief, Mataafa, are defying and obstructing the authority of the supreme court of Samoa, and requesting the assistance of the men-of-war of the three treaty powers to enable the court to execute its warrants. Replying to your inquiry it seems to this Government that in order to carry out the spirit of the Berlin treaty it would be advisable for the treaty powers to sustain in some proper and judicious way the present recognized authorities of Samoa. Assistance in support of the authority of the supreme court, if discreetly given, would seem to be well directed, and its moral and demonstrative effect might aid in quieting the existing troubles. I suggest, therefore, the wisdom of similar instructions being given by Her Majesty's Government, by the Government of Germany, and by the Government of the United States, permitting any man-of-war of the three treaty powers which for the time being may be present in Samoa to render such aid as may be necessary in executing the warrants of the supreme court, such aid to be limited strictly to that purpose and to be rendered by the man-of-war at the request of the consul of its country, who will act in the matter if the consuls of the three powers shall jointly decide in any particular case that there is necessity for such aid and shall request the consul to have it rendered. I shall be glad to be acquainted with the views of Her Majesty's Government on this subject.

I have, etc.,

JAMES G. BLAINE.

*Sir Julian Pauncefote to Mr. Blaine.*

WASHINGTON, *March 23, 1892.*

SIR: In accordance with instructions which I have received from Her Majesty's principal secretary of state for foreign affairs, I have the honor to inform you that the British land commissioner at Apia has recently reported to Her Majesty's Government that he and his colleagues had unanimously declined to act upon a suggestion of the chief justice that an accurate map of the whole of the Navigators Islands should be taken at the expense of the commission.

This decision appears to Her Majesty's Government to be amply justified by the terms of section 2, Article IV, of the Samoan final act, and the Marquis of Salisbury has accordingly instructed Mr. Haggard that Her Majesty's Government concur in the view taken by the commissioners.

I have, etc.,

JULIAN PAUNCEFOTE.

*Mr. Wharton to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
*Washington, March 24, 1892.*

SIR: I have the honor to acknowledge the receipt of your note of the 24th of December last, with its accompaniments, in relation to the Samoan currency question.

It gives me pleasure to say that a telegram will be sent to Mr. Sewall, the consul-general of the United States at Apia, instructing him to join with his British and German colleagues, whenever they may receive similar instructions, in representing to the authorities of Samoa that the Government of the United States is of opinion that German coin shall be admitted into Samoa as well as the coins of the United States and Great Britain, the 20-mark gold piece to be taken as worth \$4.76.

I have, etc.,

WILLIAM F. WHARTON,  
*Acting Secretary.*

*Mr. Blaine to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
*Washington, April 6, 1892.*

SIR: I have the honor to acknowledge the receipt of your note of the 23d ultimo, in which you inform me that the land commissioners at Apia had unanimously declined to act upon a suggestion of the Chief justice that an accurate map of the whole of the Navigators Islands should be taken at the expense of the commission, and that Her Majesty's Government concurs in the view taken by the commissioners.

In reply I have to state that this particular point does not appear to have been reported to this Government by the American land commissioner at Apia. This Government, however, is disposed to concur with Her Majesty's Government in regarding the question of preparing the suggested map as one for the decision of the land commissioners, and in regarding their decision as amply justified. The American land commissioner will, therefore, be so instructed.

I have, etc.,

JAMES G. BLAINE,



*Sir Julian Pauncefote to Mr. Blaine.*

WASHINGTON, April 19, 1892.

SIR: With reference to your note of the 20th of February last, I have the honor, in accordance with instructions which I have received from the Marquis of Salisbury, to inform you that Her Majesty's Government have given their best consideration to the proposals of the United States and German governments, respecting the enforcement of the authority of the Samoan supreme court in the execution of its warrants by the aid of the vessels of war of the three treaty powers.

Her Majesty's Government are now prepared to instruct the commanders of British ships of war in Samoan waters to afford all practicable assistance for the purpose in question upon the understanding that action shall be taken only in cases of real emergency and after an agreement has been arrived at amongst the consuls of the three powers; and, further, that a ship of war of the nationality of the offender (if an European subject) is to be employed should one be present.

It must be remembered that as the coast of Samoa is indifferently surveyed, any man-of-war which may embark the chief justice or his officers should touch only at such places in the island as in the judgment of the commanding officer he may consider safe.

Subject to these reservations, Her Majesty's Government will take the necessary steps for giving effect to the arrangement as soon as they shall be in receipt of the draft identical instructions for the three consuls which are to be concerted between the cabinets of Berlin and Washington.

I have, etc.,

JULIAN PAUNCEFOTE.

*Sir Julian Pauncefote to Mr. Blaine.*

WASHINGTON, April 28, 1892.

SIR: I have the honor to inform you that Her Majesty's consul at Samoa has forwarded to the Marquis of Salisbury a letter from Mr. Robert Louis Stevenson, inclosing certain proposals for the amendment of the final act of the Berlin conference, which have been drawn up by a committee at Apia and adopted at a meeting of the foreign residents.

In accordance with instructions which I have received from my Government, I have the honor to transmit to you herewith for the consideration of the United States Government copies of this correspondence, together with a copy of the final act showing the alterations which have been suggested.

I have, etc.,

JULIAN PAUNCEFOTE.

[Navigators Islands, April 4; inclosure in note from Sir J. Pauncefote of April 28, 1892, section 1.]

No. 1.

*Consul Cusack-Smith to the Marquis of Salisbury.—Received April 4.*

No. 10.]

SAMOA, March 2, 1892.

MY LORD: I have the honor to inclose copy of a letter received last night from Mr. Stevenson, forwarding to me the texts of parts of the Berlin treaty as altered by a committee and approved by a public meeting.

I have, etc.,

T. B. CUSACK-SMITH.

[Inclosure 1 in No. 1.]

*Mr. Stevenson to Consul Cusack-Smith.*

APIA, March 1, 1892.

SIR: At a public meeting held here last night, to the chair of which I was called, certain proposed alterations in the Berlin treaty were discussed, and I was instructed as chairman to forward, and have now the honor of inclosing to you, the text agreed upon. It was the request of the meeting that this should by you be transmitted to your Government, in the hope that your Government might be willing to consider the opinion of persons on the spot and immediately acquainted with the business and interests involved.

I have, etc.,

ROBERT LOUIS STEVENSON.

[Inclosure 2 in No. 1.]

*Samoa final act.*

The committee who prepared these suggested alterations feel that some apology is due for the somewhat rough and irregular manner in which the suggestions are now forwarded for transmission to the foreign governments, but as the committee deemed it of the utmost importance that the suggestions should be at once sent to the three powers, a feeling which is generally shared by the public at large, the very limited time at their disposal has compelled them to forward the suggestions in the present form instead of rewriting them at length.

W. COOPER,  
Chairman of Committee.  
T. MEREDITH.  
J. C. EDWARDS.  
A. R. DECKER.  
R. T. CHATFIELD.  
S. J. CUSACK.

[The proposed alterations and insertions are printed in italics and the omissions in erased type.]

ARTICLE I.—*A declaration respecting the independence and neutrality of the islands of Samoa, and assuring to the respective citizens and subjects of the signatory powers equality of rights in said islands, and providing for the immediate restoration of peace and order therein.*

It is declared that the islands of Samoa are neutral territory, in which the citizens and subjects of the three signatory powers have equal rights of residence, trade, and personal protection. The three powers recognize the independence of the Samoan Government, and the free right of the natives to elect their chief or King, and choose their form of government according to their own laws and customs. Neither of the powers shall exercise any separate control over the islands or the government thereof.

It is further declared, with a view to the prompt restoration of peace and good order in the said islands, and in view of the difficulties which would surround an election in the present disordered condition of their Government, that Malietoa Laupepa, who was formerly made and appointed King on the 12th day of July, 1881, and was so recognized by the three powers, shall again be so recognized hereafter in the exercise of such authority, unless the three powers shall by common accord otherwise declare; and his successor shall be duly elected according to the laws and customs of Samoa.

ARTICLE II.—*A declaration respecting the modification of existing treaties and the assent of the Samoan Government to this act.*

Considering that the following provisions of this general act can not be fully effective without a modification of certain provisions of the treaties heretofore existing between the three powers, respectively, and the Government of Samoa, it is mutually declared that in every case where the provisions of this act shall be inconsistent with any provision of such treaty or treaties the provisions of this act shall prevail.



Considering further that the consent of the Samoan Government is requisite to the validity of the stipulations hereinafter contained, the three powers mutually agree to request the assent of the Samoan Government to the same, which, when given, shall be certified in writing to each of the three Governments through the medium of their respective consuls in Samoa.

ARTICLE III.—*A declaration respecting the establishment of a supreme court justice for Samoa and defining its jurisdiction.*

SECTION 1. A supreme court shall be established in Samoa, to consist of one judge, who shall be styled chief justice of Samoa, and who shall appoint [a clerk and a marshal of the court], *the necessary and proper officers of the court*; and record shall be kept of all orders and decisions made by the court, or by the chief justice in the discharge of any duties imposed on him under this act. [The clerk and marshal shall be allowed reasonable fees, to be regulated by order of the court.]

SEC. 2. With a view to secure judicial independence and the equal consideration of the rights of all parties, irrespective of nationality, it is agreed that the chief justice shall be named by the three signatory powers in common accord; or, failing their agreement, he may be named by the King of Sweden and Norway. He shall be learned in law and equity, of mature years, and of good repute for his sense of honor, impartiality, and justice.

His decision upon questions within his jurisdiction, *subject to the exceptions hereinafter provided*, shall be final. He shall be appointed by the Samoan Government upon the certificate of his nomination, as herein provided. He shall receive an annual salary of six thousand dollars (\$6,000) in gold, or its equivalent, to be paid the first year in equal proportions by the three treaty powers and afterward out of the revenues of Samoa apportioned to the use of the Samoan Government, upon which his compensation shall be the first charge. Any deficiency therein shall be made good by the three powers in equal shares.

The powers of the chief justice, in case of *his temporary absence from Samoa*, or in case of a vacancy of that office from any cause, shall be exercised by the [president of the municipal council] *consular representatives of the three signatory powers acting together, or should the consular representatives not be unanimous in agreeing to perform the duties and functions of such office, then they shall, with the consent of the Samoan Government, appoint an acting chief justice, who shall hold office during such temporary absence, or in case of vacancy, until a successor shall be duly appointed and qualified.*

SEC. 3. In case either of the four governments shall at any time have cause of complaint against the chief justice for any misconduct in office such complaint shall be presented to the authority which nominated him, and if, in the judgment of such authority, there is sufficient cause for his removal, he shall be removed. If the majority of the three treaty powers so request, he shall be removed. In either case of removal, or in case the office shall become otherwise vacant, his successor shall be appointed as hereinbefore provided.

SEC. 4. The supreme court shall have jurisdiction of all questions arising under the provisions of this general act, and the decision or order of the court thereon shall be conclusive upon all residents of Samoa, *subject to the exceptions hereinafter provided*. The court shall also have appellate jurisdiction over [all municipal magistrates and officers,] *the municipal magistrate of Apia, and all other magistrates or judges appointed by the Samoan Government throughout all the islands of Samoa.*

SEC. 5. [The chief justice is authorized at his own discretion, and required upon written request of either party litigant, to appoint assessors, one of the nationality of each litigant, to assist the court, but without voice in the decision.]

*In civil cases the chief justice is authorized, in his discretion, and required upon written request of either party litigant, to appoint assessors, not more than two of the nationality of each litigant, to assist the court, but without voice in the decision. Such assessors may, however, require that their opinion in such cases shall be recorded by the court.*

(a) In criminal cases the chief justice is also authorized, in his own discretion, and required upon written request of either the accused or the prosecutor, to appoint not more than four nor less than two assessors to assist the court, but without voice in the decision. Such assessors may, however, require that their opinion in such cases shall be recorded by the court. In both criminal and civil cases such assessors shall be men of good repute and character in the community.

SEC. 6. In case any question shall hereafter arise in Samoa respecting the rightful election or appointment of king, or of any other chief claiming authority over the islands; or respecting the validity of the powers which the king or any chief may claim in the exercise of his office, such question shall not lead to war, but shall be presented for decision to the chief justice of Samoa, who shall decide it in writing, conformably to the provisions of this act and to the laws and customs of Samoa not in conflict therewith; and the signatory governments will accept and abide by such decision.



SEC. 7. In case any difference shall arise between either of the treaty powers and Samoa which they shall fail to adjust by mutual accord, such difference shall not be held cause for war, but shall be referred for adjustment on the principles of justice and equity to the chief justice of Samoa, who shall make his decision thereon in writing.

SEC. 8. The chief justice *shall* recommend to the Government of Samoa the passage of any laws which he shall consider just and expedient for the prevention and punishment of crime and for the promotion of good order in Samoa outside the municipal district, and for the collection of taxes without the district.

SEC. 9. Upon the organization of the supreme court there shall be transferred to its exclusive jurisdiction—

(1) All civil suits concerning real property situated in Samoa, and all rights affecting the same.

(2) [All civil suits of any kind between natives and foreigners or between foreigners of different nationalities.]

*All civil suits of any kind, with the exceptions hereinafter provided, between natives and foreigners, or between foreigners of different nationalities, or between foreigners of the same nationality who are not subject to any consular jurisdiction.*

*(a) All actions arising within the municipality on simple contracts, or for the recovery of debts where the amount claimed or in dispute does not exceed 200 dollars, shall be heard and determined by the municipal magistrate, subject to the right of appeal contained in Article V, section 4.*

(3) All crimes and offences committed by natives against foreigners, or committed by such foreigners as are not subject to any consular jurisdiction, subject, however, to the provisions of section 4, Article V, defining the jurisdiction of the municipal magistrate of the district of Apia.

SEC. 10. The practice and procedure of common law, equity, and admiralty, as administered in the courts of England, may be, so far as applicable, the practice and procedure of this court, but the court may modify such practice and procedure from time to time as shall be required by local circumstances. The court shall have authority to impose, according to the crime, the punishment established therefor by the laws of the United States, of England, or of Germany, as the chief justice shall decide most appropriate, or, in the case of native Samoans and other natives of the South Sea Islands, according to the laws [and customs] of Samoa.

SEC. 11. Nothing in this article shall be so construed as to affect existing consular jurisdiction over all questions arising between masters and seamen of their respective national vessels; [nor] *but in all such cases where there is no existing consular jurisdiction the supreme court shall have power to deal with and dispose of the same.* Nor shall the court take any *ex post facto* or retroactive jurisdiction over crimes or offences committed prior to the organization of the court.

**ARTICLE IV.**—*A declaration respecting titles to land in Samoa, and restraining the disposition thereof by natives, and providing for the investigation of claims thereto, and for the registration of valid titles.*

SEC. 1. In order that the native Samoans may keep their lands for cultivation by themselves, and by their children after them, it is declared that all future alienation of lands in the islands of Samoa to the citizens or subjects of any foreign country, whether by sale, mortgage, or otherwise, shall be prohibited, subject to the following exceptions:

(a) Town lots and lands within the limits of the municipal district, as defined in this act, may be sold or leased by the owner for a just consideration, when approved in writing by the chief justice of Samoa.

(b) [Agricultural] lands in the islands *outside the municipality* may be leased for a just consideration, and with carefully defined boundaries, for a term not exceeding forty (40) years, when such lease is approved in writing by the chief executive authority of Samoa and by the chief justice.

But care shall be taken that the agricultural lands and natural fruit lands of Samoans shall not be unduly diminished.

SEC. 2. In order to adjust and settle all claims by aliens of titles to land, or any interest therein in the islands of Samoa, it is declared that a commission shall be appointed, to consist of three (3) impartial and competent persons, one to be named by each of the three treaty powers, to be assisted by an officer to be styled "natives' advocate," who shall be appointed by the chief executive of Samoa, with the approval of the chief justice of Samoa.

Each commissioner shall receive during his necessary term of service a compensation at the rate of three hundred dollars per month, and his reasonable fare to and from Samoa. The reasonable and necessary expenses of the commission for taking evidence and making surveys (such expenses to be approved by the chief justice) shall also be paid, one-third by each of the treaty powers.

The compensation of the natives' advocate shall be fixed and paid by the Samoan Government.

Each commissioner shall be governed by the provisions of this act, and shall make and subscribe an oath before the chief justice that he will faithfully and impartially perform his duty as such commissioner.

SEC. 3. It shall be the duty of this commission, immediately upon their organization, to give public notice that all claims on the part of any foreigner to any title or interest in lands in Samoa must be presented to them, with due description of such claim and all written evidence thereof, within four months from such notice for the purpose of examination and registration; and that all claims not so presented will be held invalid, and forever barred; but the chief justice may allow a reasonable extension of time for the production of such evidence when satisfied that the claimant has, after due diligence, been unable to produce the same within the period aforesaid. This notice shall be published in Samoa in the German, English, and Samoan languages, as directed by the commission.

The labours of the commission shall be closed in two years, and sooner if practicable; but should it be found impossible to close such labours in the time specified, then the term shall be extended until the merits of all claims unadjudicated upon shall be inquired into and reported upon to the supreme court.

SEC. 4. It shall be the duty of the commission to investigate all claims of foreigners to land in Samoa, whether acquired from natives or from aliens, and to report to the court in every case the character and description of the claim, the consideration paid, the kind of title alleged to be conveyed, and all the circumstances affecting its validity.

They shall especially report:

(a) Whether the sale or disposition was made by the rightful owner or native entitled to make it.

(b) Whether it was for a sufficient consideration.

(c) The identification of the property affected by such sale or disposition.

SEC. 5. The commission, whenever the case requires it, shall endeavor to effect a just and equitable compromise between litigants. They shall also report to the court whether the alleged title should be recognized and registered or rejected, in whole or in part, as the case may require.

SEC. 6. All disputed claims to land in Samoa shall be reported by the commission to the court, together with all the evidence affecting their validity, and the court shall subject to the proviso hereinafter contained make final decision thereon in writing, which shall be entered on its record.

[Undisputed claims, and such] *Provided, That all valid undisputed claims, and also such other claims as shall be decided valid by the unanimous voice of the commission, shall be confirmed by the court in proper form in writing, and be entered of record.*

(a) *In all cases where the commission is not unanimous its decisions shall be subject to the revision and confirmation of the court.*

SEC. 7. The court shall make provision for a complete registry of all valid titles to land in the islands of Samoa which are or may be owned by foreigners.

SEC. 8. All the lands acquired before the 28th day of August, 1879—being the date of the Anglo-Samoan treaty—shall be held as validly acquired, but without prejudice to rights of third parties, if purchased from Samoans in good faith, for a valuable consideration, in a regular and customary manner. Any dispute as to the fact or regularity of such sale shall be examined and determined by the commission, subject to the revision and confirmation of the court.

SEC. 9. The undisputed possession and continuous cultivation of lands by aliens for ten years or more shall constitute a valid title by prescription to the lands so cultivated, and an order for the registration of the title thereto may be made.

SEC. 10. In cases where land acquired in good faith has been improved or cultivated upon a title which is found to be defective, the title may be confirmed in whole or in part upon the payment by the occupant, to the person or persons entitled thereto, of an additional sum, to be ascertained by the commission and approved by the court as equitable and just.

SEC. 11. All claims to land or to any interest therein shall be rejected and held invalid in the following cases:

(a) Claims based upon mere promises to sell or options to buy.

(b) Where the deed, mortgage, or other conveyance contained, at the time it was signed, no description of the land conveyed sufficiently accurate to enable the commission to define the boundaries thereof.

(c) Where no consideration is expressed in the conveyance, or, if expressed, has not been paid in full to the grantor, or if the consideration at the time of the conveyance was manifestly inadequate and unreasonable.

(d) Where the conveyance, whether sale, mortgage, or lease, was made upon the consideration of a sale of fire-arms or munitions of war, or upon the consideration



of intoxicating liquors, contrary to the Samoan law of the 25th October, 1880, or contrary to the municipal regulations of the 1st January, 1880.

SEC. 12. The land commission may, at its discretion, through the local government of the district in which the disputed land is situated, appoint a native commission to determine the native grantor's right of ownership and sale; and the result of that investigation, together with all other facts pertinent to the question of validity of title, shall be laid before the commission, to be by them reported to the court.

ARTICLE V.—*A declaration respecting the municipal district of Apia, providing a local administration therefor, and defining the jurisdiction of the municipal magistrate.*

SECTION 1. The municipal district of Apia is defined as follows: Beginning at Vailoa the boundary passes thence westward along the coast to the mouth of the River Fuluasa, thence following the course of the river upwards to the point at which the Alafuala road crosses said river, thence following the line of said road to the point where it reaches the River Vaisinago, and thence in a straight line to the point of beginning at Vailoa, embracing also the waters of the harbour of Apia.

SEC. 2. Within the aforesaid district shall be established a municipal council, consisting of six members and a [president of the council] *mayor*, who shall [also] have a vote only.

Each member of the council and also the *mayor* shall be a resident of the said district, and owner of real estate, or conductor of a profession or business in said district, which is subject to a rate or tax not less in amount of 5 dollars per annum.

For the purpose of the election of members of the council the said district shall be divided into two or three electoral districts, from each of which an equal number of councillors shall be elected by the taxpayers thereof qualified as aforesaid, and the members elected from each electoral district shall have resided therein for at least six months prior to their election.

It shall be the duty of the consular representatives of the three treaty powers to make the said division into electoral districts as soon as practicable after the signing of this act. In case they fail to agree thereon, the chief justice shall define the electoral districts. Subsequent changes in the number of councillors, or the number and location of electoral districts, may be provided for by municipal ordinance.

The councillors shall hold their appointments for a term of two years, and until their successors shall be elected and qualified.

(a) *In the case of the seat of any councillor becoming vacant by death, resignation, or otherwise, before the said term of two years has expired, the person elected in his place shall hold office only for the balance of the said term.*

In the absence of the [president] *mayor* the council may elect a chairman *pro tempore*.

Consular officers shall not be eligible as councillors or *mayor*, nor shall the *mayor* or councillors exercise any consular functions during their term of office.

SEC. 3. The municipal council shall have jurisdiction over the municipal district of Apia so far as necessary to enforce therein the provisions of this act which are applicable to said district, including the appointment of a municipal magistrate, and of the necessary subordinate officers of justice and of administration therein; and to provide for the security in said district of persons and property, for the assessment and collection of the revenues therein, as herein authorized; and to provide proper fines and penalties for the violation of the laws and ordinances which shall be in force in said district and not in conflict with this act, including sanitary and police regulations. They shall establish pilot charges, port dues, quarantine, and other regulations of the port of Apia, and may establish a [local] postal system. They shall also fix the salaries of the municipal magistrate, and establish the fees and charges allowed to other civil officers of the district, excepting [clerk and marshal] the officers of the supreme court.

All ordinances [resolutions] and regulations passed by [this] the council before becoming law shall be referred to the consular representatives of the three treaty powers sitting conjointly as a consular board, who shall either approve and return such ordinances and regulations, or suggest such amendments as may be unanimously deemed necessary by them.

Should the consular board not be unanimous in approving the ordinances and regulations referred to them, or should the amendments unanimously suggested by the consular board not be accepted by a majority of the municipal council, then the ordinances and regulations in question shall be referred for modification and final approval to the chief justice of Samoa.

SEC. 4. The municipal magistrate shall have exclusive jurisdiction in the first instance over all persons, irrespective of nationality, in case of infraction of any law, ordinance, or regulation passed by the municipal council, in accordance with the



provisions of this act, provided that the penalty does not exceed a fine of 200 dollars, or imprisonment *with or without hard labour* for a longer term than [180 days] *one year*.

In cases where the penalty imposed by the municipal magistrate shall exceed a fine of [twenty] *fifty* dollars, or a term of [ten] *twenty-one* days' imprisonment, an appeal may be taken to the supreme court.

(a) *In civil cases where the amount claimed or in dispute exceeds 50 dollars, an appeal from the decision of the municipal magistrate may be taken to the supreme court.*

(b) Upon such terms as to cost, or otherwise, as the magistrate may deem just.

SEC. 5. [The president of the municipal council] *The mayor* shall be a man of mature years, and of good reputation for honour, justice, and impartiality. He shall be [agreed upon by the three powers, or, failing such agreement, he shall be selected from the nationality of Sweden, the Netherlands, Switzerland, Mexico, or Brazil, and nominated by the chief executive of the nation from which he is selected, and appointed by the Samoan Government upon certificate of such nomination.

He may act under the joint instruction of the three powers, but shall receive no separate instruction from either. He shall be guided by the spirit and provisions of this general act, and shall apply himself to the promotion of the peace, good order, and civilization of Samoa. He may advise the Samoan Government, when occasion requires, and shall give such advice, when requested by the King, but always in accordance with the provisions of this act, and not to the prejudice of the rights of either of the treaty powers.

He shall receive an annual compensation of five thousand dollars (\$5,000), to be paid the first year in equal shares by the three treaty powers, and afterward out of that portion of Samoan revenues assigned to the use of the municipality, upon which his salary shall be the first charge.]

*elected by ballot, annually, by the taxpayers of the entire municipal district, and shall have resided in the municipal district for not less than two years immediately prior to his election. He shall, before entering upon his functions, make and subscribe before the chief justice an oath or affirmation that he will well and faithfully perform the duties of his office.*

*Each councillor, upon being elected and before taking his seat on the council, shall make and subscribe before the chief justice a similar oath or affirmation.*

He shall be the receiver and custodian *and treasurer* of the *municipal* revenue accruing under the provisions of this act, and shall render quarterly reports of his receipts and disbursements to the King and to the municipal council, *and in all matters relating to such revenue and the custody thereof and dealing therewith he shall be subject to and act in accordance with the directions and instructions of the municipal council.*

He shall superintend the harbour and quarantine regulations, and shall, as the chief executive officer, be in charge of the administration of the laws and ordinances applicable to the municipal district of Apia.

SEC. 6. The chief justice shall, immediately after assuming the duties of his office in Samoa, make the proper order or orders for the election and inauguration of the local government of the municipal district, under the provisions of this act. Each member of the municipal council, including the president, shall, before entering upon his functions, make and subscribe before the chief justice an oath or affirmation that he will well and faithfully perform the duties of his office.

#### ARTICLE VI.—*A declaration respecting taxation and revenue in Samoa.*

SECTION 1. The port of Apia shall be the port of entry for all dutiable goods arriving in the Samoan Islands; and all foreign goods, wares, and merchandise landed on the islands shall be there entered for examination; but coal and naval stores, which either government has by treaty reserved the right to land at any harbour stipulated for that purpose, are not dutiable when imported as authorized by such treaty, and may be there landed as stipulated without such entry or examination.

SEC. 2. To enable the Samoan Government to obtain the necessary revenue for the maintenance of Government and good order in the islands, the following duties, taxes, and charges may be levied and collected, without prejudice to the right of the native Government to levy and collect other taxes in its discretion upon the natives of the islands and their property, and with the consent of the consuls of the signatory powers upon all property outside the municipal district, provided such tax shall bear uniformly upon the same class of property, whether owned by natives or foreigners:

#### (A) IMPORT DUTIES.

1. On ale and porter and beer, per dozen quarts .....	\$0.50
2. On spirits, per gallon .....	2.50
3. On wine, except sparkling, per gallon .....	1.00
4. On sparkling wines, per gallon .....	1.50

5. On tobacco, per lb .....	0.50
6. On cigars, per lb .....	1.00
7. On sporting arms, each .....	4.00
8. On gunpowder, per lb .....	0.25
<i>Additional:</i>	
8. Opium, per lb .....	20.00
9. Statistical duty on all merchandise and goods imported, except as aforesaid, <i>ad valorem</i> .....	2 per cent.
<i>N. B.—All measures of quantity are understood to be imperial.</i>	

## [(B) EXPORT DUTIES.]

On copra, <i>ad valorem</i> .....	2½ per cent.
On cotton .....	1½ “ “
On coffee .....	2 “ “

## (C) TAXES TO BE ANNUALLY LEVIED.

1. Capitation tax on Samoans and other Pacific Islanders not included under No. 2 [per head .....	\$1.00]
<i>to be imposed on males only between the ages of 14 and 50 years, the amount per head to be fixed by the Samoan Government and the chief justice.</i>	
2. Capitation tax on colored plantation laborers, other than Samoans, per head .....	2.00
3. On boats, trading and others (excluding native canoes and native	{ [2.00]
4. On firearms, each .....	
boats carrying only the owner's property), each .....	
5. On dwelling houses (not including the dwelling houses of Samoan natives) and on land and houses used for commercial purposes, <i>ad valorem</i> .....	1 per cent.
6. Special taxes on trades as follows:	
Class I.—On stores of which the monthly sales are \$2,000 or more, each store .....	100.00
Class II.—Below \$2,000 and not less than \$1,000 .....	48.00
Class III.—Below \$1,000 and not less than \$500 .....	36.00
Class IV.—Below \$500 and not less than \$250 .....	24.00
Class V.—Below \$250 .....	12.00

## (D) OCCASIONAL TAXES.

1. On foreign trading vessels exceeding 100 tons burden, calling at Apia, { and doing business there, at each call .....	{ [10.00]
1 (a). Deeded vessels engaged in the coasting trade, 20 tons and under, per annum .....	25.00
1 (b). Over 20 tons and under 100 tons, per annum .....	15.00
2. Upon every transfer or purchase of real estate there shall be paid by the transferee or purchaser before the instrument or deed effecting such transfer or completion of such purchase can be registered a tax of ½ per cent on the value of the consideration paid.	25.00
<i>Where there is no consideration or where the consideration is nominal or not valuable such tax shall be computed and payable on the actual value of the property transferred or purchased. Unless and until such tax be paid the title of the transferee or purchaser shall be held invalid.</i>	
[2. Upon deeds of real estate, to be paid before registration thereof can be made, and without payment of which title shall not be held valid, upon the value of the consideration paid. ....	½ per cent.]
3. Upon other written transfers of property upon the selling price ....	1 per cent.
<i>Evidence of the payment of the last two taxes may be shown by lawful stamps affixed to the title paper, or otherwise by the written receipt of the [proper tax] collector of customs.</i>	
<i>When the property so transferred or purchased is situated within the municipality, such last two taxes shall be payable to and receivable by the Apia municipal council.</i>	
<i>When the property so transferred or purchased is situated outside the municipality, such last two taxes shall be payable to and receivable by the Samoan Government.</i>	
4. Unlicensed butchers in Apia shall pay upon their sales .....	1 per cent



## (E) LICENSE TAXES.

No person shall engage as proprietor or manager of or in any of the following professions [or] trades, occupations or callings, except after having obtained a license therefor, and for such licenses the following taxes shall be paid quarterly in advance:

	Per month.
Tavern-keeper .....	\$10. 00
	Per annum.
Attorney, barrister, or solicitor .....	60. 00
Doctor of medicine or dentistry .....	30. 00
Auctioneer or commission agent .....	40. 00
Baker .....	12. 00
Banks, or companies for banking .....	60. 00
Barber .....	6. 00
Blacksmith .....	5. 00
Boat-builder .....	6. 00
Butcher .....	12. 00
Cargo boat or lighter .....	6. 00
Carpenter .....	6. 00
Photographer or artist .....	12. 00
Engineer .....	12. 00
Engineer assistants .....	6. 00
Engineer apprentices .....	3. 00
Hawker .....	1. 00
Pilot .....	24. 00
Printing press .....	12. 00
Sailmaker .....	6. 00
Shipbuilder .....	6. 00
Shoemaker .....	6. 00
Land surveyor .....	6. 00
Tailor .....	6. 00
Waterman .....	6. 00
Salesmen, bookkeeper, clerks, paid not less than \$75 a month .....	3. 00
Same, paid over \$75 a month .....	6. 00
White laborers and domestics, per head .....	5. 00
Factory hands and independent workmen .....	5. 00

*Addendum to Schedule E.—Provided, that the municipal council may, from time to time, with respect to persons residing or carrying on business or practicing their callings within the municipality, make such additions or alterations to the above schedule and such reductions or increase in the amount of tax to be paid as may seem reasonable and just. And the Samoan Government may make such additions, alterations, reductions, or increase with respect to persons residing or carrying on business or practicing their callings outside the municipality.*

SEC. 3. Of the revenues [paid into the Treasury] payable and receivable under the provisions of this act, the proceeds of the Samoan capitation tax, of the license taxes paid by native Samoans, and of all other taxes which may be collected without the municipal district shall be for the use and paid out upon the order of the Samoan Government. [Query—omitted: The proceeds of the other taxes which are collected in the municipal district exclusively shall be held for the use and paid out upon the order of the municipal council, to meet the expenses of the municipal administration as provided by this act.]

SEC. 4. It is understood that "dollars" and "cents," terms of money used in this act, describe the standard money of the United States of America or its equivalent in other currencies as specified below:

£1 = 5 dollars in United States currency.

4s. = 1 dollar in United States currency.

20-mark, gold = 5 dollars in United States currency.

*Chilean currency shall no longer be a legal tender in Samoa.*

ARTICLE VII.—*A declaration respecting arms and ammunition and intoxicating liquors, restraining their sale and use.*

SECTION 1.—*Arms and ammunition.*—The importation into the islands of Samoa of arms and ammunition by the natives of Samoa, or by the citizens or subjects of any foreign country, shall be prohibited, except in the following cases:

(a) Guns and ammunition for sporting purposes, for which a written license shall have been previously obtained from the [president of the municipal council] mayor.



*All arms and ammunition imported or sold in violation of these provisions shall be forfeited to the Government of Samoa. The Samoan Government retains the right to import suitable arms and ammunition to protect itself and maintain order; but such arms and ammunition shall be entered at the customs (without payment of duty) and reported by the mayor of Apia to the consuls of the three treaty powers.*

(b) Small arms and ammunition carried by travelers as personal appanage.

The sale of arms and ammunition by any foreigner to any native Samoan subject or other Pacific Islander resident in Samoa is also prohibited.

Any arms or ammunition imported or sold in violation of these provisions shall be forfeited to the Government of Samoa. The Samoan Government retains the right to import suitable arms and ammunition to protect itself and maintain order; but all such arms and ammunition shall be entered at the customs (without payment of duty) and reported by the president of the municipal council to the consuls of the three treaty powers.

The three governments reserve to themselves the future consideration of the further restrictions which it may be necessary to impose upon the importation and use of firearms in Samoa.

SEC. 2. *Intoxicating liquors.*—No spirituous, vinous, or fermented liquors or intoxicating drinks whatever shall be sold, given, or offered to any native Samoan or South Sea Islander resident in Samoa to be taken as a beverage.

Adequate penalties, including imprisonment with or without hard labor, for the violation of the provisions of this article shall be established by the municipal council for application within its jurisdiction and by the Samoan Government for all the islands.

#### ARTICLE VIII.—*General dispositions.*

SECTION 1. The provisions of this act shall continue in force until changed by consent of the three powers. Upon the request of either power, after three years from the signature hereof, the powers shall consider by common accord what ameliorations, if any, may be introduced into the provisions of this general act. In the meantime any special amendment may be adopted by the consent of the three powers, with the adherence of Samoa.

SEC. 2. The present general act shall be ratified without unnecessary delay and within the term of ten months from the date of its signature. In the meantime the signatory powers respectively engage themselves to adopt no measure which may be contrary to the dispositions of the said act. Each power further engages itself to give effect in the meantime to all provisions of this act which may be within its authority prior to the final ratification.

Ratifications shall be exchanged by the usual diplomatic channels of communication.

The assent of Samoa to this general act shall be attested by a certificate thereof signed by the King and executed in triplicate, of which one copy shall be delivered to the consul of each of the signatory powers at Apia for immediate transmission to his Government.

Done in triplicate at Berlin this 14th day of June, 1889.

EDWARD B. MALET.  
CHARLES S. SCOTT.  
J. A. CROWE.  
H. BISMARCK.  
HOLSTEIN.  
R. KRANNEL.  
JOHN A. KASSON.  
WM. WALTER PHELPS.  
GEO. H. BATES.

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*Sir Julian Pauncefote to Mr. Blaine.*

WASHINGTON, May 5, 1892.

SIR: With reference to your note of the 29th of January last, respecting the course to be pursued in relation to the complaint against the chief justice of Samoa, of his having absented himself without leave to the detriment of public interests, I have the honor to inform you that Her Majesty's Government have received a dispatch from

the chief justice, dated March 2, 1892, explaining the reasons of his absence from his post.

In this dispatch Monsieur Cedererantz states that he is forwarding identical communications to Count von Caprivi and to yourself, and Her Majesty's Government have now been informed by the German Government that they are in receipt of the chief justice's explanation and that they are disposed to take no further action in the matter.

In accordance with instructions which I have received from the Marquis of Salisbury, I have the honor to acquaint you that his lordship has expressed his concurrence in the view taken by the Government of Germany in the matter.

I have, etc.,

JULIAN PAUNCEFOTE.

*Mr. Blaine to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, May 11, 1892.

SIR: I have the honor to acknowledge the receipt of your note of the 5th instant, relative to the communication received by Her Majesty's Government from the chief justice of Samoa, explaining the reasons of his absence from his post.

A similar communication, under date of March 2, 1892, has been received by this Department from Mr. Cedererantz, the chief justice of Samoa. While his absence from his post without previous notification and permission is regretted, this Government is indisposed to take any further action in regard thereto.

I have, etc.,

JAMES G. BLAINE.

*Mr. Herbert to Mr. Foster.*

BRITISH LEGATION,  
Washington, July 5, 1892.

SIR: With reference to Sir Julian Pauncefote's note of the 19th April last, I have the honor, by direction of my Government, to inclose for your information copy of an instruction which has been addressed to Her Majesty's consul in Samoa in regard to the conditions on which the three treaty powers concerned have agreed to accede to King Malietoa's request that their ships of war in Samoan waters might be permitted to enforce the authority of the supreme court of Samoa in the execution of its warrants.

I have at the same time the honor to inform you that instructions in the same sense have been sent by Her Majesty's Government to the British commander in chief on the Australian station, and I am desired by the Marquis of Salisbury to express the hope that similar instructions may shortly be forwarded to the American consular and naval authorities, if they have not been already issued.

I have, etc.,

MICHAEL H. HERBERT.

[Inclosure.]

*Sir Philip Currie to Mr. Cusack-Smith.*

[Political.]

No. 11.]

FOREIGN OFFICE,  
June 24, 1892.

SIR: With reference to your dispatch No. 71, of the 9th of December last, I am directed by the Marquis of Salisbury to inform you that an identic letter was on that date addressed by King Malietoa to the Governments of Great Britain, Germany, and the United States, requesting the assistance of their ships of war at Apia to enable the supreme court of Samoa to execute its warrants.

With a view to uphold the system of judicature established by the final act of the conference of Berlin on Samoan affairs, the treaty powers are disposed, upon certain conditions, to accede to King Malietoa's appeal, and an understanding as to the procedure to be adopted in such cases has been arrived at. You will find it recorded in the inclosed memorandum, and you will be guided by the rules therein laid down in any future action which you may have to take in this matter.

You are authorized to inform the Samoan Government of the decision come to, and you should concert with your colleagues of Germany and the United States, to whom similar instructions will be sent, as to the form in which this communication should be made.

The British naval authorities in the Pacific have also received instructions which will insure their cooperation when it is required.

I am, etc.,

P. M. CURRIE.

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Memorandum.

The intervention of ships of war will be restricted to the action required for executing the warrants of arrest issued by the supreme court. Such intervention is to take place only on a requisition from the consul of the country to whom the vessel belongs, and he will make the requisition only on occasions when the consuls of the three treaty powers are unanimously of opinion that support is necessary and request him to apply for it.

The execution of warrants for the arrest of persons other than natives should, if possible, be intrusted to a ship of war of the nationality of the person to be arrested. In other cases any action that may be taken in compliance with these requisitions should, as far as possible, be taken by the ship of war in turn.

It is to be borne in mind that the intervention of the ship in war in these cases should have the character of an executory measure against individuals and should not lead to any warlike action.

There will thus be antecedent reasons against the employment of ships of war in cases where the desired end can not be obtained without an expedition far into the interior.

The question whether compliance with a requisition is practicable from a military point of view is one that must be left to the discretion of the commander of the ship of war concerned.

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*Mr. Foster to Mr. Herbert.*DEPARTMENT OF STATE,  
Washington, July 11, 1892.

SIR: I have the honor to acknowledge the receipt of Sir Julian Pauncefote's note of April 19 last, and of your note of the 5th instant, and to inclose for your information a copy of an instruction to the vice consul of the United States at Apia of the 11th instant, concerning the joint action of the three treaty powers in Samoa in the use of their war vessels to aid in the enforcement and execution of the warrant issuing from the superior court of Samoa.

I have, etc.,

JOHN W. FOSTER.



*Memorandum.*

Any ship of war of the three treaty powers which for the time being may be present in Samoa may aid when necessary in executing warrants issuing from the supreme court of Samoa; such assistance is to be furnished only upon the request of the consular officer of the country to which the ship belongs, and such ship will act only when the consular officers of the three treaty powers are unanimously of the opinion that such assistance is necessary and shall authorize the request for assistance.

Assistance in the execution of warrants in the cases of persons other than natives should, if possible, be requested of a ship of war of the nationality of the person against whom the warrant is issued. Otherwise such assistance should be furnished by the ships of war in turn as far as practicable.

The action of ships of war hereby authorized is executory simply against individuals and is in no sense warlike, and no request should be made for their assistance when the object to be attained can be accomplished only by an expedition into the interior of the country.

The commander of the ship of war, upon whom the request for assistance is made, must in each case, in his discretion, decide whether or not compliance with the request is practicable in a military point of view.

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*Mr. Foster to Mr. Herbert.*

DEPARTMENT OF STATE,  
Washington, July 13, 1892.

SIR: I have the honor to inform you that the copy of a dispatch from Her Majesty's consul in Samoa that accompanied your note of the 11th instant has been read with interest.

I have, etc.,

JOHN W. FOSTER.

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*Mr. Herbert to Mr. Foster.*

BRITISH LEGATION,  
Newport, August 8, 1892.

SIR: In accordance with instructions which I have received from the Marquis of Salisbury, I have the honor to transmit copy of a letter from Mr. Thomas Maben, stating the reasons which have led him to accept the appointment of secretary of state in the Samoan Government.

I have, etc.,

MICHAEL H. HERBERT.

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[Inclosure.]

*Mr. Maben to the Marquis of Salisbury.*

MULNUU, SAMOA, June 23, 1892.

MY LORD: I beg most respectfully to be allowed to address your lordship unofficially on the matter of my taking the position of secretary of state in the Samoan Government. I presume that our consul here has reported the fact by the same mail that takes this. I felt that, as a British subject, I might be permitted to address a letter to your lordship, as well and shortly as I could, stating my reasons for accepting the appointment in the present unsettled state of the country.

It seems that the King, the chief justice, and the president of the municipal council had come to the conclusion that it had become necessary to appoint some one

with local knowledge to administer the internal affairs of the country, and their choice fell upon me.

I felt considerable hesitation in accepting the position offered me, because I saw that the time had gone past when a vigorous administrative policy might have welded the different factions in Samoa together, and caused the laws to be obeyed and the taxes paid by all the people on these islands. On the other hand, I thought that as I have held the post of surveyor-general for some time past I might accept the new appointment in addition to the one already held, and if I could succeed in bringing about a better state of affairs, well and good; if I failed, the country would be in a no worse position than when I took office. I am very anxious to make this clear, that the office was not of my asking, and that I am not at all sanguine that I can now effect much improvement in the condition of the country, because I think that the opportunity for vigorous action was lost when the chief justice arrived here.

Had the whole machinery of government been reorganized and carried into effect at that time, I feel sure that the Mataafa opposition would not now be in existence. The Samoans at that time fully believed that the provisions of the final act of the treaty of Berlin would be strictly enforced by the three powers, if necessary. Now they hold a different opinion, and they feel that, with a strong faction in opposition to the Government, they can set the law at defiance.

To attempt to enforce the payment of taxes from the opposition party, without the aid of outside pressure, would, I feel certain, lead to civil war. This the Governments are trying all they can to avoid by not taking aggressive action.

The last year's taxes are three months overdue, and the attempt is only now being made to collect them. The people are naturally averse to paying taxes, and if, by joining the faction opposed to the Government, they can secure exemption, they are very likely to take that course.

I will not trouble your lordship with further details, as I have no doubt you are kept well informed from here. My only object in writing is to place the facts in connection with my appointment before your lordship, so that you may judge of the circumstances surrounding the position at the present time.

I have, etc.,

THOMAS MABEN.

*Mr. Adee to Mr. Herbert.*

DEPARTMENT OF STATE,  
Washington, August 15, 1892.

SIR: I have the honor to apprise you of the receipt of a dispatch from the vice-consul-general of the United States at Apia, numbered 200, of the 19th ultimo, accompanied by the following notice that appeared in the Samoan Times of the 16th ultimo:

Notice: During the months of August, September, and October ensuing, I shall continue to adopt for my receipts and disbursements the present rate of exchange, viz, the English pound sterling and the 20-mark gold piece as equal to \$5 United States currency.

FRHR. SENFFT VON PILSACH,  
Treasurer.

APIA, July 14, 1892.

I have said to the chargé d'affaires *ad interim* of Germany here that the published notification of Baron von Pilsach does not accord with the understanding reached, as stated in the Department's note to Sir Julian Pauncefote of March 24, 1892, that the 20-mark gold piece was to be received as the equivalent of \$4.76 and that it was not doubted that the German Government would cause the order of Baron von Pilsach to be rescinded and the agreement of March 24 last to be carried out.

I shall be glad to learn what, if any, action has been taken by Her Britannic Majesty's Government in this matter.

I have, etc.,

ALVEY A. ADEE,  
Acting Secretary.

*Mr. Adee to Mr. Herbert.*

DEPARTMENT OF STATE,  
Washington, August 15, 1892.

SIR: I have the honor to acknowledge the receipt of your note of the 8th instant, inclosing a copy of a letter from Mr. Thomas Maben, stating the reasons which have led him to accept the appointment of secretary of state in the Samoan Government.

I have, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

*Mr. Herbert to Mr. Foster.*

BRITISH LEGATION,  
Newport, R. I., August 26, 1892.

SIR: In accordance with instructions which I have received from my Government, I have the honor to inclose herewith for your information copy of a verbal communication from the German embassy in London, together with a copy of the reply which has been returned to it, respecting a difference of opinion which has arisen as to the appointment of the import and export duties in Samoa, leviable under Article VI of the final act of the Berlin conference of 1889, and at the same time to inquire whether the views of Her Majesty's Government as explained in this correspondence meet with your concurrence.

If the treaty powers should be unanimously of opinion that they should decline to accept the decision of the chief justice, it appears to be desirable that some communication should be made to him to that effect.

In the event of the U. S. Government sharing this opinion, Her Majesty's Government would be glad to be favored with their views as to the most courteous and acceptable method of making such a communication to the chief justice, and as to the terms in which it may most appropriately be couched.

I have, etc.,

MICHAEL H. HERBERT.

[Inclosure.]

*Verbal communication.*

The chief justice at Apia has recently decided that, according to the provisions of the Samoa act, the revenues from import and export duties received up to the present time for the municipality of Apia are not to be paid to the municipality, but to the Samoan Government. If this decision is carried into effect, the municipality would lose the greater part of the revenues. The decision of the chief justice has, therefore, caused in the municipality a considerable agitation, which has found its way into the European and Australian press. The Imperial German Government are of opinion that the decision of the chief justice has been issued without giving the municipality an opportunity to bring forward their rights; it reverses a state of law existing as yet with unanimous consent, and finally differs from the provisions of Article II, Section III, of the Samoa act, respecting the distribution of revenues. According to the opinion of the Imperial Government, these provisions must undoubtedly be applied to revenues from duties. It is to be added that the duties



are chiefly raised from and borne by residents of the municipality. If only for this reason, it would be fair to grant these revenues to the municipality. This procedure is the more recommendable as it warrants the useful and appropriate expenditure of the revenues, which, in the present state of things, can not be expected to the same extent, if they are delivered to the Samoan Government.

The Imperial Government hope that Her Majesty's Government agree with the Imperial Government that the former state should be maintained, according to which the revenues from duties belong to the municipality. In this case it would be necessary to inform the consuls of the unanimous opinion of the three Governments, and so instruct them to direct the president of the municipality, in the name of the treaty powers, to further receive the duties, for the use of the municipality. At the same time, it would be necessary to inform the chief justice hereof. The Imperial Government think that it is without doubt that the treaty powers are not bound to the decisions of the chief justice in questions affecting the construction of the Samoa act. This view is expressly shared in the provisions of Article III, section 4, of the Samoa act, according to which decisions of the supreme court are only conclusive "upon all residents of Samoa."

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[Inclosure.]

*Lord Salisbury to Count Hatzfeldt.*

FOREIGN OFFICE,  
London, August 12, 1892.

SIR: With reference to my previous note of to-day's date, I have the honor to acknowledge the receipt of your excellency's note of the 20th ultimo, proposing that the three treaty powers should make an identic communication to the president of the municipal council of Apia in the sense of the views expressed by Mr. Consul Cusack-Smith in his dispatch No. 14, of May 25 last.

In reply I have to state that Her Majesty's Government concur generally in Consul Cusack-Smith's recommendations. They can not go so far as to say that the Samoan administration should make it their first duty to protect and advance the interests of the foreign settlers; they think that rather an equal and impartial consideration should be given to the interests of both whites and natives alike, but they quite recognize the importance of cordial cooperation between the chief justice, the municipal president, and the consular body, and of the adoption by the two former of a more conciliatory attitude toward the foreign colony.

Her Majesty's Government further agree that the resignation of Baron von Pilsach should not be accepted.

I should be glad to learn how your Government propose that the views of the three treaty powers should be conveyed to the chief justice and to the municipal president.

I have, etc.,

SALISBURY.

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[Inclosure.]

*Lord Salisbury to Count Hatzfeldt.*

FOREIGN OFFICE, August 12, 1892.

M. L'AMBASSADEUR: Her Majesty's Government have carefully considered, in communication with the law advisers of the Crown, the verbal communication made by Count Metternich, on the 24th ultimo, explaining the views of the German Government on the difference of opinion which has arisen as to the apportionment of import and export duties in Samoa leviable under the provisions of Article VI of the final act of the Berlin conference on the affairs of Samoa.

The matter at issue appears to resolve itself into a question as to the merits and validity of a decision given by the chief justice of Samoa, on the 28th March last by which these duties were assigned to the use of the Samoan Government. That decision is contested by the municipal council of Apia, who lay claim to the dues, and have formally appealed to the treaty powers for a determination of the points in dispute; and, in the meanwhile, a temporary compromise has been effected through the intervention of the consular board.

As matters at present stand, it seems clear that if the Samoan Government are deprived of the duties they will be practically bankrupt and unable to carry on the

administration, since it appears to be generally admitted that the capitation tax can not be collected; whilst, on the other hand, the municipality will be reduced to the same position if the duties are withdrawn from them.

The German Government state that, in their opinion, the decision of the chief justice should not be maintained; and they express a hope that Her Majesty's Government will concur in this view; in which event they propose that the three treaty powers should overrule the decision in question, and instruct their consuls to direct the municipal president to receive and apply the import and export duties on account of the municipality.

Her Majesty's Government are advised that the decision of the chief justice is not in accordance with the provision of the final act.

If the two parties—i. e., the municipal council and the representatives of the Government—had submitted the question to the decision of the chief justice under section 4 of Article III, it would in the opinion of Her Majesty's Government have been within his competence to adjudicate upon it and his decision would have been binding upon all parties; but in their judgment, having regard to what had taken place under the final act and the system of administration actually in force thereunder, it was not competent to the chief justice to make, as he did in this case, a declaration as to the rights of the parties under section 3 of Article VI of the final act, upon an informal reference, and without the matter being properly argued before him.

In the opinion of Her Majesty's Government, the view taken by the German Government is correct, and assuming the treaty powers to be unanimous they may under the circumstances decline to accept the decision of the chief justice; but in the event of there being any difference of opinion between them and Samoa, and of the question being referred to the chief justice under section 7 of Article III, his decision, whatever it might be upon such a reference, would apparently be binding upon all the powers.

As respects the actual merit of the decision itself apart from its informality, Her Majesty's Government are advised that the language of section 3 of the final act is ambiguous, and that it would be well that a clear and explicit distribution of the duties, taxes, and charges between the Samoan Government and the municipality of Apia should be made.

Her Majesty's Government are not without hope that the contending parties may still be able to arrive at a common understanding upon this point which shall be alike satisfactory to themselves and to the treaty powers.

I have, etc.,

SALISBURY.

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*Mr. Herbert to Mr. Foster.*

BRITISH LEGATION,

*Newport, R. I., September 1, 1892.*

SIR: In accordance with instructions which I have received from my Government, I have the honor to transmit herewith a copy of a letter addressed to the Marquis of Salisbury by Baron S. von Pilsach, inclosing copy of an ordinance passed by the Samoan Government to provide for the collection and management of the revenue of customs at the port of Apia.

In forwarding this ordinance to Her Majesty's Government, Baron S. von Pilsach states, as you will observe, that it has been drawn up in conformity with the customs regulation ordinance of 1881, enacted in Fiji, a few clauses having been modified to suit local requirements, and he asks that the necessary steps may be taken to render it applicable to British subjects in Samoa.

I should be very much obliged if you would be good enough to inform me whether the United States Government have received a similar application from the municipal president; and, if so, what action they propose to take with a view to render the provisions of the ordinance obligatory on United States citizens.

I have, etc.,

MICHAEL H. HERBERT.



[Navigators Islands, July 22; confidential, 192; section No. 1.]

*Baron Senfft von Pilsach to the Marquis of Salisbury.*

APIA, SAMOA, June 16, 1892.

MY LORD: I have the honor to forward to your lordship two printed copies of an ordinance regulating the collection and arrangement of the revenue of customs. It has been framed in conformity with "The customs regulation ordinance, 1881," enacted in Her Britannic Majesty's colony of Fiji, a few clauses of the latter having been altered according to local circumstances.

I most respectfully submit the request to your lordship that you will order the necessary steps to be taken for the purpose of rendering applicable the provisions of the said ordinance to the British subjects living in Samoa.

I have, etc.,

FRIHR. SENFFT VON PILSACH.

[Inclosure in No. 1.]

### SAMOA CUSTOMS ORDINANCE, 1892.

*An ordinance regulating the collection and arrangement of the revenue of customs.*

Whereas it is expedient to provide for the collection and management of the revenue of customs under the final act of the conference at Berlin on Samoan affairs, I, Malietoa, King of Samoa, do hereby order as follows:

1. The short title of this ordinance shall be "The customs ordinance, 1892."

2. In the construction and for the purposes of this ordinance the following words within inverted commas shall have the meanings by this section assigned to them, unless there be something in the context repugnant thereto.

"*Vessel*," "*boat*," or "*ship*."—Anything made or used to carry by water, or to have, hold, or contain on water any human being or any goods or property whatsoever.

"*Goods*."—Any animal, money, bills, notes, bonds, or any movable property of any kind whatsoever.

"*Owner*."—The actual owner of any goods, or his agent, or the consignee of any goods, or his agent—"proper officer," "officer of customs"—any person or persons duly appointed and employed to carry out or to assist to carry out any of the provisions of this ordinance, or any duty connected with this or any other ordinance that may hereafter be in force for the collection of customs dues or wharfage rates.

"*Intact*" means with reference to goods conveyed or delivered by any person that such goods are in the condition in which they were received by such person; "*foreign*" or "*abroad*," any and every place beyond the waters of the kingdom.

"*Master*."—Any person (except a pilot) having charge of any vessel, boat, or ship.

"*Dutiable goods*."—All goods subject to the payment of duty and on which duty had not yet been paid.

"*Months*."—Calendar months.

### GENERAL ADMINISTRATION.

3. The president of the municipal council of Apia, as custodian and receiver of the revenue of the kingdom, shall be charged with the general administration of this ordinance.

4. It shall be lawful for the president to appoint from time to time a collector of customs for the port of Apia, that port being, under the Berlin general act, the port of entry for all dutiable goods arriving in the country, and also to appoint such other officers as may be necessary, from time to time, to carry into effect the provisions of this ordinance, provided that the collector of customs now in office and such officers as are now employed as officers of customs, shall be deemed to have been appointed under this ordinance, and any officer so appointed shall receive such salary as may from time to time be determined by the king, and also from time to time to dispense with the services of any or all such officers, and any officer receiving any fee or reward from any private individual, company, or firm, without the permission of the president, on account of anything done or omitted to be done in relation to his office or employment, shall be dismissed the service and shall be further liable to a fine not exceeding 1,000 dollars, or, in default of payment, to imprisonment for any term not exceeding six months.



*Arrival and entry inwards of vessels.*

5. No private vessel arriving from parts beyond the seas, excepting vessels carrying coals or naval stores authorized by treaty, shall go to any place in the islands of Samoa before reporting and entering at the port of Apia, except in case of being driven thereto by stress of weather, want of provisions, or other unavoidable circumstances. The master of every vessel who shall contravene the provisions of this section shall be liable to a penalty not exceeding 500 dollars, or, in default of payment, imprisonment for any term not exceeding three months.

6. On the arrival of any vessel within the waters of the kingdom any officer of customs may, at any place and at any time, proceed on board such vessel, and if by boat the display by such officer of a flag of not less dimensions than 4 feet by 2 feet, with the upper horizontal half containing the upper half of the Samoan flag, and the lower horizontal half white with the letters "S C" conspicuous thereon, shall be deemed sufficient proof of the authority of such officer, and any other person other than an officer of the customs displaying such a flag shall be liable to a penalty not exceeding 200 dollars, or, in default of payment, to imprisonment for a term not exceeding two months.

7. The master of any vessel arriving in the kingdom who shall refuse to receive any officer of customs at any place on board such vessel, or who shall refuse or neglect to bring his vessel to when hailed by any officer of customs in any boat as provided in the last preceding section, or by the master or commander of any vessel employed for the prevention of smuggling, or used in other way for carrying out the provisions of this ordinance, shall be liable to a penalty not exceeding 1,000 dollars nor less than 100 dollars, or, in default of payment, to imprisonment for a term not exceeding six months nor less than three weeks.

8. On the arrival of any officer of customs on board any vessel, as hereinbefore provided, the master of such vessel shall, if required so to do, provide such officer with all necessary meals and suitable sleeping accommodation in the cabin of such vessel, and shall continue to provide such meals and sleeping accommodation as long as such officer shall remain on board. If the master of any vessel on which any officer, or officers, is or are stationed neglect or refuse to provide each and every officer with such accommodation and subsistence, the master of such vessel shall be liable to a fine not exceeding 200 dollars.

9. On the arrival of any vessel within the port of Apia the proper customs officer shall proceed on board, and shall remain on board until her departure, or until he be withdrawn by order of the collector of customs, and may demand all the papers of such vessel, and shall have full access to every part thereof, and may search for any goods in any part of such vessel, and may require the master of the same to remove any hatchway or to open any door, compartment, or place, or any trunk, box, chest, or package of any kind that in the opinion of such officer of customs should contain any goods, and if the master aforesaid shall refuse or neglect to comply with such request, the said officer of customs may break open, or cause to be broken open, any hatchway, door, compartment, or place, or any trunk, box, chest, or package of any kind, and any dutiable goods found concealed therein, or any goods packed in the same packages with or used to conceal such dutiable goods, shall be forfeited. Such officer may also fasten down any hatchway, and secure any storeroom, cabin, place, or compartment, and may seal, mark, or otherwise secure any goods on board such vessel, and if the said officer shall place any lock, mark, fastening, or seal, upon any hatchway, storeroom, cabin, place, or compartment, or on any goods or ship's stores, or on any package on board, and should, so long as the said vessel is within the port of Apia, such lock, mark, fastening, or seal, be opened, altered, or broken by any person without consent and authority of an officer of customs, or if any goods or ship's stores be secretly conveyed away or removed from any place where they were secured by the said officer, or if any hatchway, after being fastened down as aforesaid, or if any storeroom, cabin, place, or compartment, after being secured as hereinbefore provided, be opened without the consent and authority of the officer of customs, or if the master of any vessel refuses to deliver to any officer of customs all the papers of such vessel on demand, as aforesaid, the master of such vessel shall for every such offense be liable to a penalty not exceeding 1,000 dollars, nor less than 200 dollars, and in default of payment to imprisonment for any time not exceeding six months, nor less than three weeks.

10. No goods or ship's stores shall be landed, transshipped, or removed in any way whatever from any vessel approaching or arriving in the kingdom after such vessel shall have arrived within 4 leagues of the coast of the kingdom, nor shall bulk be broken, nor any goods or cargo be restowed on such vessel so as to facilitate the unloading of such goods or their removal from such vessel until permission shall have been given by the proper officer of customs for such landing, transshipment, or removal, as hereinafter provided, and the master of any vessel from which any goods or ship's stores are landed, transshipped, or removed without permission, as aforesaid,

or on which bulk is broken or any goods or cargo restowed, as hereinbefore mentioned, and any person receiving such goods, or assisting to remove the same from any vessel, or any place after removal from any vessel, shall be liable to a penalty not exceeding \$1,000 nor less than \$100, and, in default of payment, to imprisonment for any term not exceeding six months nor less than one month, and any goods so removed or received shall be forfeited to the Crown, as well as any animal, boat, cart, dray, or other conveyance found by any officer of customs receiving or removing the same.

11. The master of any private vessel arriving from a foreign port at the port of Apia shall, within twenty-four hours after arrival, unless prevented by any quarantine law, produce for examination by the proper customs officer the vessel's clearance from the last port of departure, the shipping bills and store's list, the certificate of registry, the list of passengers on board, and the manifest of the cargo of such vessel, and also the bill of lading or a copy thereof for every part of the cargo on board, the vessel's log book, and the crew's articles of agreement, and shall subscribe a declaration or declarations, and answer any reasonable question in respect of each or any of these matters, or connected with the last voyage of the vessel, on oath or otherwise, as may be required by such proper officer of customs, and on such form or forms as may be from time to time prepared by the collector of customs for that purpose.

12. If, in the opinion of any officer of customs, any hatchway, door, lid, cover, partition, or any other article on any vessel containing dutiable goods is defective in any way, in whole or in part, and not adapted to afford sufficient security or protection to any dutiable goods on board such vessel, the officer aforesaid shall deliver to the master of the vessel a note in writing requesting that any defect as hereinbefore mentioned shall be supplied and remedied within a time to be specified therein, and if any reasonable request so made is not complied with within a reasonable time, the master aforesaid shall on conviction be liable to a fine not exceeding 500 dollars, nor less than 100 dollars, or, in default, to imprisonment for any term not exceeding three months nor less than seven days.

13. Whenever any vessel shall be wrecked at any place within the kingdom, the master thereof, if landed in the kingdom, shall as soon as possible make a report of such vessel as far as practicable in accordance with the provisions of section 11 hereof.

#### *Import entries for goods.*

14. Forms to be called "import entries" shall be prepared according to a formula and of dimensions to be from time to time prescribed by the President, and shall be adapted to meet (1) the transshipment of any dutiable goods foreign, (2) the removal of any dutiable goods to a Government bonded warehouse or to a private bonded store for storage therein, (3) the payment of duty on goods for home consumption, (4) the removal from any vessel of any goods not liable to the payment of duty, (5) the removal of any goods to a custom-house at the expense of the owner or consignee for inspection by a customs officer in the event of there being no invoice for such goods, or when the collector or other proper officer of customs is not satisfied with the invoice produced for such goods, and any such entry when signed by the collector of customs shall be transmitted to the proper officer and shall be his warrant for the delivery or reception of the goods mentioned therein, as the case may be. Any officer of customs may refuse to receive or to pass any import entry until the vessel referred to in such import entry has been entered inwards as hereinbefore provided, and unless such import entry is according to the prescribed formula, or to the same effect and of the same dimensions, and unless the required number of copies is produced; and no goods shall be removed from the custody of the officers of customs until the proper entry shall have been passed for such goods and permission granted by the proper officer of customs for such removal, and any goods removed from any ship or from any Government bonded warehouse or private bonded store without such permission, and unless the proper entry shall have been duly passed therefor, shall be forfeited to the Crown.

15. The owner of any goods shall fill up an import entry for any goods imported by any vessel for transshipment on board any other vessel, or to be landed in the port, within twenty-four hours after such vessel has been reported by the master thereof as hereinbefore provided if the amount of goods on board such vessel for the owner aforesaid is under 50 tons by weight or measurement, and within forty-eight hours if the amount of such goods exceeds 50 tons; but if the import entries for any goods aforesaid have not been presented at the custom-house within the above periods, respectively, then the master or agent of the vessel aforesaid may present the entries at the custom-house; and it shall be lawful for the proper officer to deal with such entries as if they had been presented by the owner of such goods.

16. On passing an entry for the transshipment of any dutiable goods foreign, the owner of such goods, with one or more persons to the satisfaction of the collector



of customs, shall enter into a bond which shall be in a form approved by the President, and for a sum not less than once the value of the goods to be transhipped, as estimated by the collector of customs, with twice the duty payable on such goods added thereto, that such goods will be removed direct to the vessel specified in such bond as about to export the said goods, that the said vessel will proceed on her course from the port of Apia out of the kingdom without coming to anchor at any spot therein, and without any unnecessary delay; and that such goods will not be removed from such vessel, nor landed or transhipped at any place within the waters of the kingdom, except under the supervision and with the permission of the proper officer of customs, but will be landed or transhipped at the port or places mentioned in the bond aforesaid.

17. On passing an import entry for the removal of any dutiable goods from any vessel to the Government bonded warehouse or private bonded store, the owner of such goods shall enter into a bond in a form to be approved by the President in a sum not less than once the value of the goods concerned, as estimated by the proper officer of customs, with twice the duty payable on such goods added thereto, that such goods will be conveyed direct and intact from the vessel importing them to the Government bonded warehouse or private bonded store specified in the bond aforesaid, and duly lodged therein, and that such goods will not be removed from the said Government bonded warehouse or private bonded store except as hereinafter provided, and with the authority and permission of an officer of customs.

18. When all particulars affecting any vessel shall have been made known to the proper officer of customs as provided in section 11 hereof, such officer may then in special cases, on the approval of the President, grant a warrant in writing to the officer of customs on board of such vessel to permit the landing of any goods therefrom for which import entries have not been passed, or on which customs dues have not been paid, and the storing of the same at the risk and expense of the owner of such goods or of the master or agent of the vessel as may be agreed upon, and in such manner and subject to such terms and conditions as may have been previously approved by the President.

19. Before any permit is granted as provided in the last preceding section for the landing of any goods from any vessel without previously passing import entries therefor, or on which customs dues have not been paid, the owner of such goods or the master or agent of the vessel importing such goods shall enter into a bond in a form and for a sum to be approved by the president, and with such other additional security for the payment of duties and other charges as may by the president be deemed necessary, that the goods aforesaid shall, under the supervision and control of the officers of customs, be conveyed direct from such vessel to some place previously approved by and secured to the satisfaction of the collector of customs and specified in such bond, and that the said goods shall remain there under the supervision and control of the officers of customs as aforesaid, but at the risk and expense of such owner or such master or agent, and such other additional personal security as may have been demanded, until import entries shall have been passed for same as hereinbefore provided, and that such import entries shall be passed and all dutiable goods removed from such place as aforesaid within a date to be specified in such bond, which shall, however, not exceed fourteen days; and that all goods, whether dutiable or nondutiable, landed from any vessel as aforesaid, shall, until such entries are passed or until they are removed under proper authority to a government bonded warehouse or private bonded store, be kept intact and secure under lock and key in a separate store or compartment which shall contain no other goods than goods landed under a permit, as provided in this section, and that such key shall remain in the custody of an officer of customs so long as such officer deems necessary.

20. When a receiving store shall have been erected to facilitate the speedy discharge of cargo from vessels arriving at Apia, and when such receiving store shall have been proclaimed by the president as a place for the temporary reception of dutiable and other goods, any goods on any vessel arriving in the Kingdom from abroad may, on the written permission of the collector of customs to the master or agent of such vessel, be received into such store before the said vessel has been entered inwards; but the entry inwards and the clearance outwards for the same as hereinafter provided must be duly and properly made by the master thereof before the vessel leaves the port, and the proper import entries as hereinbefore provided shall be passed in respect of any goods landed in such receiving store before the same can be removed therefrom, and no goods of any kind or description shall be removed from such receiving store without the consent and authority of the collector of customs, and any goods removed without such consent and authority shall be forfeited, and any person concerned in the removing, and any person receiving such goods knowing the same were removed without the consent and authority of the collector of customs, shall be liable to a fine not exceeding 500 dollars nor less than 100 dollars, or, in default, to imprisonment for any term not exceeding three months nor less than one month.



21. When an import entry has not been passed for any dutiable goods or for any goods supposed by any officer of customs to be wholly or in part liable to the payment of duty landed as aforesaid and deposited within a receiving store within forty-eight hours after such landing, such dutiable goods or supposed dutiable goods shall, at the expense of the owner thereof, be removed to the Government bonded warehouse, where, if import entries are not passed, they shall be detained at the expense of the owner of such goods, and shall be subject to all provisions of this ordinance affecting goods in bond until an import entry shall have been duly passed therefor, save only that the amount of bond rent payable on such goods shall, until the proper entry is passed for the same, be three times that payable on goods received therein after the proper entries have been passed, and on any goods not liable to the payment of duty and not removed from such receiving store within forty-eight hours there shall be paid by the owner for storage a sum three times greater than the authorized charges for the detention of goods in the Government bonded warehouse.

22. For the purpose of conveying from any vessel, store, or place to the Government bonded warehouse or to the custom-house, or from the custom-house or Government bonded warehouse to any place or vessel, or for the conveyance from any one place to any other place of any dutiable goods, the president may, at his discretion, issue a license to any person to convey the same by any boat or cart or by any other means, by land or by water, and the person to whom any such license is issued shall enter into a bond for a sum of not less than 2,000 dollars, and with such other additional security as the president may deem necessary, that any dutiable goods delivered to such person as aforesaid for transport or removal will be conveyed direct and intact to their proper destination at the custom-house, Government bonded warehouse, private bonded store, or at any vessel or any other place as may be legally authorized in each case, and any person conveying such dutiable goods as aforesaid without being duly licensed as herein provided shall be liable to a penalty not exceeding 300 dollars, and, in default of payment, to imprisonment for any term not exceeding three months, and any dutiable goods conveyed by such unlicensed person shall be forfeited, provided that nothing herein contained shall prevent the boats belonging to any vessel importing or exporting any goods from carrying or removing such goods, subject to the provisions of this or any other ordinance affecting such carrying or removing.

23. It shall be lawful for the president at any time to cancel any license issued by him to any person under the last preceding section for the conveyance or transport of dutiable goods.

24. The president shall from time to time determine what articles and what quantity of articles liable to duty shall, when introduced into Samoa as passenger's luggage, be exempt from the payment of duty, and for all such articles exceeding the quantity as allowed there shall, before such articles are removed from any vessel, be passed an import entry and duty paid thereon by the owner of such articles in the manner hereinbefore provided, or a bond entry shall be passed for such articles, and the same deposited in the Government bonded warehouse or in a private bonded store as hereinbefore provided, and any neglect or refusal to pass such import or such bond entry as aforesaid shall render the person importing any such article into the kingdom, or in whose possession the same may be found by any officer of customs, liable to a penalty not exceeding 100 dollars, or, in default of payment, to imprisonment for any term not exceeding one month, and any such article so found as aforesaid shall be forfeited to the Crown.

#### *Government bonded warehouse.*

25. It shall be lawful for the president from time to time to appoint at Apia any building to be a Government bonded warehouse for the reception and securing of any dutiable goods, and for the receiving, storing, and delivering such goods there shall be paid before such goods are removed by the owner thereof from such government bonded warehouse such fees as the president may from time to time determine, together with all duties or other charges leviable on the same.

26. It shall be lawful for any customs officer in charge of any government bonded warehouse to refuse to admit any goods for storage therein if he considers that such goods can not be placed there without causing damage either to the building itself or to any other goods therein or likely to be received therein. If any goods as aforesaid are left at or near to any custom-house wharf or Government bonded warehouse after any officer of customs has refused to receive such goods into any government bonded warehouse, and if, on the request of said officer to the person bringing the said goods to or near to such custom-house wharf or government bonded warehouse, such goods are not removed within a time specified by the officer of customs aforesaid and duty paid thereon before such removal, it shall be lawful for such officer to cause such goods to be sold, and from the proceeds of the sale thereof to deduct any duty or any other charges payable to the Crown on such goods, and if

the goods aforesaid can not be sold such officer may cause the same to be destroyed, and no claim shall lie against such or any other officer or against the Crown on account of such destruction or on account of any damage arising from the loss or exposure of any such goods.

27. The officer in charge of any Government bonded warehouse shall, on receiving any goods into such warehouse, compare such goods as far as practicable with the import entry for warehousing the same, and shall forthwith make due and regular entry of the receipt of the goods aforesaid in a book to be kept for that purpose, according to a form to be prescribed by the president, and after the receipt of the proper authority on a form duly appointed, shall, on the delivery or rewarehousing of such goods, duly and regularly enter such delivery or rewarehousing in the book aforesaid.

28. All goods removed to a Government bonded warehouse or private bonded store shall be removed thither in the original packages in which imported, unless with the special permission of the collector of customs, but the owner of any goods in any Government bonded warehouse or private bonded store, or any person employed by him, may, with the permission of the collector of customs, take samples of such goods on payment of a fee of 25 cents for every sample so taken, or may bulk, sort, lot, pack, or repack any goods, with the exception of spirits, which shall be repacked only for ships' stores, and provided that no package so repacked shall be of less dimensions or contain a smaller quantity of any article than may from time to time be determined by the collector of customs.

29. Any dutiable goods deposited in any Government bonded warehouse or in any private bonded store may, after payment of all moneys owing thereon to the Crown, be removed therefrom by the proper owner (1) by passing an export entry for such goods and entering into a bond as hereinafter provided for the export of dutiable goods, or (2) by passing an entry for home consumption and paying duty on such goods, or (3) by passing an entry in respect of such goods for the removal of dutiable goods to a Government bonded warehouse or private bonded store, and entering into a bond as required in section 17 of this ordinance, and any dutiable goods removed from any Government bonded warehouse or from any private bonded store save as provided in this section (unless with the written permission of an officer of customs) shall be forfeited to the Crown, and any person removing, or assisting or aiding or abetting to remove, such goods, except in a manner provided in this ordinance, and any person receiving such goods shall be liable to a fine not exceeding 1,000 dollars, or, in default, to imprisonment for any term not exceeding six months.

30. Should the owner of any goods left three years in any Government bonded warehouse or private bonded store not remove such goods at the expiration of that period, nor pass any entry to have such goods rewarehoused, the collector of customs shall publish a notice giving the marks of any such goods, with the name of the owner thereof if the name of the owner is known, and with the date on which such goods were received into any Government bonded warehouse or private bonded store, and shall name a day, which shall not be less than one month from the date of such notice, on which the said goods shall be sold by public auction, if not previously dealt with by the proper owner in the manner hereinbefore provided in section 29 hereof, and shall cause the same to be sold accordingly.

31. On the sale by auction of any goods as aforesaid there shall be deducted from the proceeds of sale, after payment of any necessary expenses connected with the sale thereof, any customs duty and any other fee or charges payable to the Crown on such goods, and the surplus, if any, after such payments have been made, shall be paid into the treasury, and if not claimed by the owner of the goods aforesaid within twelve months shall be forfeited to the Crown. But should any goods as aforesaid be unsaleable, or should their condition or value be such that the proceeds of sale would not, in the opinion of the collector of customs, pay the necessary expenses of sale by public auction, such goods may be destroyed, and neither the owner thereof nor any person or persons, shall have any claim against any officer of customs, nor against the Crown for the destruction of the goods.

32. When any goods have been received into a Government bonded warehouse, or so long as any goods remain therein, the owner of such goods may at any time, on application to the officer of customs in charge of such warehouse, and on payment of the proper fee, receive a certificate, to be called a "bond certificate" in such form as may be from time to time approved by the president, stating that such goods are in the Government bonded warehouse, and containing a description of such goods so far as known to such officer, and when the same were deposited in such warehouse. On the issue of any certificate as aforesaid the officer granting the same shall make due entry thereof in a book to be kept for that purpose, and no goods in respect of which a certificate has been granted as hereinbefore mentioned shall be removed from the Government bonded warehouse unless the certificate aforesaid shall be produced along with the invoice bill of lading or shipping receipt required under this ordinance in connection



with the removal of any goods from a Government bonded warehouse. The certificate shall be issued for and include only unbroken packages, and of these only such packages as were bonded on one day by the owner thereof aforesaid and may be transferred by regular assignment, but only for all the goods mentioned in the certificate and in the form thereon provided, and any person to whom the certificate has been so assigned, producing the same at the Government bonded warehouse mentioned therein shall be held to be the owner of the goods described in the certificate, and on the surrender of the certificate to the officer of customs who shall immediately cancel the same, the goods shall be delivered to the said person on the payment of all dues and charges thereon, and no claim on account of such goods so delivered shall lie against any officer of customs or against the Crown. The fee payable on the certificate under this section shall be at the rate of 25 cents per package, and not exceeding 1 dollar and 50 cents on the whole of the goods bonded on one day and mentioned in the certificate, or such other rate as may be from time to time fixed by the president.

*Private bonded stores.*

33. It shall be lawful for the president to issue from time to time, at his discretion, to any fit and proper person a license to keep a private bonded store for the reception and storage therein of dutiable goods, and the president may on any reasonable grounds at any time cancel or refuse to renew any such license, and in the event of the license being cancelled, no refund of any part of the sum paid on account of such license shall be made to the licensee, and any dutiable goods in such private bonded store shall be removed at the expense of the licensee thereof to a Government bonded warehouse.

34. There shall be paid in advance on account of any such license as aforesaid, which shall be issued to terminate on the last day of the months of March, June, September, or December, respectively, a sum which shall not in any case be less than at the rate of \$250 per annum, but if the building in respect to which such license is issued is capable of containing more than 50 tons of goods, estimating 40 cubic feet of space to a ton, but not more than 10 feet in height being measured upon each floor, the amount to be paid for such license shall increase at the rate of 1 dollar for every additional ton of storage room as aforesaid, but shall not in any case exceed 1,750 dollars in the whole for one year.

35. No license shall be issued for any building to be used as a private bonded store until the same has been inspected by the president or by some officer deputed by him for that purpose, and until the president is satisfied as to the form of arrangement, safety, and security of the building, and until the applicant for such license has given sufficient security in a sum to the satisfaction of the president in the form of a bond signed by such applicant and two other persons, to be approved by the president; that the building aforesaid shall be kept in proper repair; that no new door or possible entrance of any kind whatever will be made into such building, and no alteration by way of repairs or otherwise shall be made in or on any part of such building so licensed, except with the previous sanction and consent of the president, and that all dutiable goods received therein shall be stowed so as that access thereto may be easy, and that all such goods shall be accounted for to the satisfaction of the proper officer of customs, and that no dutiable goods will be received into or removed from such private bonded store, except in the presence and by the consent and permission of an officer of customs; and after passing an entry as hereinbefore provided to enable such goods to be taken to a Government bonded warehouse, or to a private bonded store, or, after the proper entries have been passed, to permit such goods to be exported or to be used for home consumption, or to be otherwise disposed of according to law.

36. For every door or entrance in any such private bonded store there shall be two different locks, the key of one of which shall remain in the possession of the person to whom the license for such private bonded store has been issued, and the other key shall remain in the custody of an officer of customs, and no person shall enter such private bonded store, or bring, or cause to be brought, into the same, or take, or cause to be taken, thence, any goods except in the presence and with the consent and permission of an officer of customs. An officer of customs shall keep a book in which to enter the receipt and delivery of any goods into or from any private bonded store, as if the same were received into or delivered from a Government bonded warehouse, and shall, at the request of the person holding such license as aforesaid; and on twenty-four hours' notice if so required by the collector of customs, proceed to such private bonded store on any lawful day between the hours of 9 and 12 in the forenoon, for the purpose of examining any goods, or for receiving or delivering any goods, therein, or for the purpose of allowing any goods to be repacked, as if the same were in any Government bonded warehouse; and any officer of customs may



at any time visit such private bonded store, and require the person holding a license for the same to grant to such officer immediate admission to the said private bonded store, and should such person refuse or neglect to admit the said officer of customs, such person shall be liable to a penalty not exceeding 500 dollars nor less than 100 dollars, or, in default of payment, to imprisonment not exceeding three months nor less than one month, and the officer of customs as aforesaid may cause such private bonded store to be broken open by force, should the person holding the license for the same, or the representative of such person, refuse or neglect to admit the officer of customs as aforesaid whenever the latter may demand admission therein.

37. Neither the Crown nor any officer of the Crown shall be liable for any damage that may occur to any dutiable goods, or for any loss that may occur directly or indirectly in connection with any dutiable goods while the same are being conveyed to or kept in any private bonded store.

*The collection of customs dues.*

38. All customs dues, warehouse, wharfage, and other charges payable to the Crown on any goods shall be paid in full at or before the time that an entry is passed for such goods, whether such entry be an import or export entry or an entry for home consumption, and before such goods are removed from the control and custody of the proper officer of customs, and such dues and charges shall be paid to the collector of customs, or to any other officer deputed by such collector to receive the same and between the hours of 10 a. m. and 4 p. m. on ordinary working days, and between the hours of 10 a. m. and noon, Saturdays.

39. Before the collector of customs determines the amount of duty payable on any goods, or before any entry is passed for any goods, as hereinbefore provided, the collector may demand that the invoice and bill of lading or shipping receipt for such goods be produced before him for examination, and if the said invoice or bill of lading or shipping receipt is not produced as aforesaid, or if for any other reason it is considered necessary, then the collector may cause the said goods to be brought, at the expense of the owner thereof, to the custom-house, or to a Government bonded store, to be examined there (any unpacking, weighing, measuring, or repacking to be done at the expense of the owner), and may require the said owner to declare on oath when and where the same were purchased by him, so that the collector may examine such goods in order to fix the amount of duty payable thereon; but should the collector be unable to determine the amount of duty payable on any goods for which no invoice, bill of lading, or shipping receipt has been produced as aforesaid, or should the owner be dissatisfied with the decision of the collector in respect of the customs dues payable on the said goods, the collector may employ an expert to examine such goods at the expense of the owner thereof, in order to enable the amount of duty payable thereon to be determined; but nothing in this section shall prevent the owner of any goods for which no invoice, bill of lading, or shipping receipt has been received from depositing same in a Government bonded warehouse for a period not exceeding two months, by passing an entry as complete as possible for the removal of such goods to a Government bonded warehouse, and if on the expiration of that period perfect entry has not been passed for such goods, they shall be sold for payment of any dues and charges payable thereon to the Crown and fixed by the collector of customs, or by an expert as aforesaid, and any overplus shall be paid to the owner.

40. The amount of customs dues payable on any goods which are liable to an *ad valorem* duty shall, if an invoice for the said goods is produced to the collector of customs, be calculated on the price for the said goods by the owner thereof as represented in such invoice, notwithstanding that such price may be different from that paid for such goods by any prior owner thereof, provided always that the collector of customs is satisfied that the entries in such invoice are true, and that the invoice is true in every particular, and that the price paid for the said goods by the owner thereof, as represented by the invoice aforesaid, appears to be a fair market value for such goods at the place and at the time that the same were purchased by the owner thereof.

41. When the collector of customs is of opinion that the invoice produced by the owner for any goods for the payment of *ad valorem* duty thereon is not genuine, or that any entry therein is not true, or when such collector is of opinion that the price paid by the importer of such goods therefor as represented by the invoice for the same as aforesaid is less than that at which such goods could have been purchased at the time and place mentioned in such invoice, or when the importer of any goods for which no invoice, bill of lading, or shipping receipt has been produced, refuses to pay duty on such goods as fixed by the collector or by an expert as provided for in section 39 hereof and requests that the value of such goods be fixed by arbitration as herein provided, the said collector shall report the matter to the President

who shall appoint two experts, who, in the event of disagreement, shall appoint a third, to determine by arbitration the market value of such goods at the time when and the place where such goods were purchased by the owner or importer of the same, and upon the value of such goods as thus fixed duty shall be paid. Should the value of such goods determined as aforesaid be greater than the value thereof as represented by the invoice produced by the owner of the said goods to the collector of customs, or equal to or greater than the amount fixed by the collector of customs, or by an expert as provided for in section 39 hereof, then the expenses of such arbitration shall be borne by the owner of the goods concerned; but should the value of such goods determined as aforesaid be equal to or less than the value or price as represented by the invoice for such goods or less than the value fixed under section 39 hereof by the collector or by an expert employed by the same, as the case may be, then the expenses of arbitration shall be borne by the crown.

42. When the invoice produced to the collector of customs in respect of any goods liable to an *ad valorem* duty shows that any trade discount has been allowed to the owner of such goods on the purchasing price of said goods as entered in the body of the invoice for the same the collector may, if he considers it necessary so to do, omitting the said discount from the original price on which any *ad valorem* duty is calculated in respect of such goods, require the owner thereof to make a declaration on oath that such discount was truly made to him on the purchasing price of such goods, and that the entry showing the same on the invoice was made at the time and at the place of the purchase of said goods by such owner; and should the owner of said goods refuse or neglect to make the declaration aforesaid then the duty payable on such goods shall be calculated on the invoice price of the same without making any allowance for any discount as aforesaid, provided always, that the collector of customs is of opinion that the price so represented is such as that at which the goods in question could have been purchased at the time and place represented by the invoice aforesaid; but if the collector is of opinion that the price of such goods would not be fairly shown as aforesaid then the value of such goods shall be determined in the manner provided in section 41 hereof.

43. Should the collector of customs be of opinion that any invoice, bill of lading, or shipping receipt, or other document produced before him in connection with the payment of any customs dues or other charges on any goods, is not genuine, or that any false entry has been made thereon, or some necessary entry omitted therefrom, or should any dispute arise between the owner of any goods and any officer of customs as to the amount of customs dues or other charges payable upon any goods it shall be lawful for the collector of customs to detain in his possession any invoice, bill of lading, shipping receipt, or other document put before him in connection with such goods until any such dispute shall be settled in the manner therein provided, or until any prosecution in respect of any such invoice, bill of lading, shipping receipt, or other document, or in respect of any goods referred to by the same, shall have been completed.

44. When the owner of any goods liable to the payment of duty wishes to remove such goods from any Government bonded warehouse or from any private bonded store by the payment of customs dues and other charges thereon the owner aforesaid shall pass an entry at the custom-house for the same for home consumption. At the time that such an entry is passed the invoice and bill of lading or shipping receipt for such goods shall be produced to the collector of customs, and upon such invoice or upon the import entry passed for such goods, or upon the entry of such goods made by the proper officer of customs on receiving such goods into a Government bonded warehouse, or private bonded store, customs dues shall be calculated and paid, save only on spirits on which duty shall be paid according to its measurement or weight, on delivery from bond, and upon tobacco and cigars, on which duty shall be paid according to weight on delivery from bond, after having been in bond three months, provided, that if the invoice and bill of lading or shipping receipt for such goods is not produced then the amount of duty payable on such goods shall be determined in the manner provided in section 39 hereof, and if the owner of the said goods is dissatisfied with the decision thus come to, or if the collector of customs is not satisfied that the invoice so produced is genuine and true in every particular, then the amount of duty shall be finally determined in the manner provided in section 41 of this ordinance.

#### *Entry of vessels outwards.*

45. The master of any vessel about to sail beyond the Kingdom shall, not less than twenty-four hours before any outward cargo is taken on board such vessel, or before the sailing of the said vessel, should the same sail without taking on board any cargo, complete an entry outwards at the custom-house, producing before the collector of customs any papers or documents connected with such vessel as may be demanded by such officer, and such entry outwards shall be in such form and of such



dimensions as may from time to time be approved by the president, and shall be of one of the following classes:

1. A direct entry outwards for any vessel sailing with or without cargo from Apia to some port or place outside Samoa.

2. A special entry outwards to be granted by the President, or any officer of customs authorized by him for the purpose, who may demand any security that may by him be deemed requisite that the conditions on which the special entry outwards is granted will be complied with for any vessel sailing from Apia, or any other place, with or without outward cargo on board to take in outward cargo at some place or places in the Kingdom other than Apia and to sail thence, calling at Apia or without visiting this port as may have been permitted in such special entry outwards.

The master of any foreign-going vessel as aforesaid who takes causes or permits any goods to be taken on board such vessel before completing an entry outwards, as herein provided, or that sails, or attempts to sail, from the Kingdom without completing the proper entry outward in each case, as hereinbefore provided, or that passes an "indirect entry outwards," shall be liable to a penalty not exceeding 500 dollars nor less than 150 dollars, or, in default of payment, to imprisonment for any term not exceeding three months nor less than one month.

46. No entry outwards, as provided in the last preceding section, shall enable the master of any vessel to take or receive on board any outward cargo until all inward cargo shall have been discharged and removed from such vessel, provided, however, that whenever the collector of customs is satisfied that it would be expedient to allow outward cargo to be shipped at the same time that inward cargo is being discharged, or before all inward cargo is removed from any vessel, and that such can be done without injury to the public revenue, such collector may permit outward cargo to be put on board any vessel before all inward cargo has been discharged or removed from the same, but every such case shall be reported to the President by the collector.

#### *Export entry of goods.*

47. The owner of any goods shipped or to be shipped for export from the Kingdom in any vessel about to sail beyond the Kingdom shall pass an export entry for the same at the custom-house, and such export entry shall in every case be completed by the owner of the goods to which the entry refers before a clearance has been granted to the vessel by which the said goods are to be exported, and shall be in a form and of dimensions to be from time to time approved by the President, and shall in every case state the true value in this Kingdom and the goods to be exported, and shall declare whether such goods were produced or manufactured in the Kingdom or imported thither from abroad, and for what port or place any such goods are destined, and shall, on demand of the proper officer of customs, produce the invoice, bills of lading, and other documents relating to such goods to test the accuracy of the export entry for the same, and every such export entry shall be of some one of the following classes:

(1) An export entry for goods to be exported under bond.

(2) An export entry for goods on which any drawback of duty is allowed.

(3) An export entry for goods not liable to the payment of any duty.

(4) An export entry for goods on which an export duty is leviable.

48. Any goods shipped or brought for shipment may be examined by any officer of customs at any place before or after an export entry is passed for such goods, and the opening for that purpose of packages containing such goods, and the weighing, repacking, and, if brought on the request of an officer of customs to a custom-house for examination, the landing and shipping thereof shall be done by or at the expense of the exporter; and any goods in respect of which no export entry has been passed, as provided in the last preceding section, found on board any vessel by any officer of customs after a clearance has been granted to such vessel, as provided in section 53 hereof, shall be forfeited to the Crown.

49. No dutiable goods and no goods on which any drawback of any duty is claimed under this ordinance, or under any regulation framed in accordance with the provisions thereof, shall, for the purpose of being exported from the Kingdom, be put on board any vessel of less dimensions than 30 registered tons, nor on board any vessel whatever not provided with the means of properly securing any goods as aforesaid to the satisfaction of any officer of customs.

50. An export entry for dutiable goods shall be completed by the owner of such goods before the same are removed from the place where such goods may have been legally deposited, and one copy of such entry, duly passed and signed by the collector of customs, shall be delivered to the officer of customs charged with the safe keeping or delivery of the said goods before such officer shall deliver up the same or allow them to be removed from his control. And an export entry for any goods on which drawback of duty is allowed shall be passed before such goods are shipped; and at the time of completing any export entry as aforesaid the owner of the goods



described in such entry shall enter into a bond, to be approved by the collector of customs, and which, if required, shall be signed by at least one other person besides the owner of the said goods, to the satisfaction of the collector, that the goods to be exported as aforesaid shall, within such time and by such route and by such vessel as may be specified in such bond, under the supervision of an officer of customs, be duly put on board the vessel mentioned in such bond, and that they will not be used on board such vessel in the Kingdom, nor landed or removed from such vessel at any place within the waters of the Kingdom, except to be returned, as may be permitted or directed by the collector of customs, to a Government bonded warehouse or to a private bonded store, or by passing an import entry for the said goods in the manner heretofore provided in this ordinance for goods imported into this Kingdom from abroad.

51. The owner of any dutiable goods exported as provided in the last preceding section, and any coobligant signing along with such owner the bond required under said section, shall not be held as relieved from obligation in respect of such bond until a landing certificate has been produced to the collector of customs signed by some customs or consular officer at the place where such goods were landed, or, in the event of there being no consular or customs officer at such place, then the said certificate shall be signed by some person in authority there, or by any two white residents in such place, that the goods aforesaid were duly landed there, unless the President shall be satisfied, without the production of such landing certificate, that the goods to which the bond refers were duly landed at the place specified in such bond, or have been otherwise properly accounted for.

52. An export entry for any goods liable to any export duty shall be passed and completed before such goods are shipped, and at the time of passing such entry, and before the said goods are put on board any vessel for export, all customs dues leviable on such goods shall be paid to the collector of customs, and any such goods found by any officer of customs, on board any vessel before any customs dues on such goods have been paid, or any such goods taken or received on board any vessel, except in the presence and by the authority and permission of an officer of customs, may be seized by any officer of customs, and the owner of such goods shall be liable to a penalty not exceeding 300 dollars, or, in default of payment, to imprisonment not exceeding two months, and all such goods seized, as aforesaid, shall be forfeited to the Crown.

53. The master of any foreign-going vessel shall, not more than twenty-four hours before such vessel leaves the port of Apia, produce before the collector of customs the register of such vessel and the crew's articles of agreement, with a content or manifest on the approved form of all goods on board such vessel for export, and, if required by the collector of customs, all bills of lading or shipping receipts having reference to such goods, with a list of all goods on board such vessel to be used as stores and provisions during the voyage, and with a list of all passengers leaving the port of Apia on the said vessel, with their destinations, and the master aforesaid shall make and subscribe a declaration that the above-mentioned papers and documents are correct and true, according to the best of his knowledge and belief, and such declaration, should the collector of customs so demand, shall be made on oath, and when the said collector is satisfied on each and all of the above particulars, then such collector shall grant a clearance to such vessel, which shall be in a form to be prescribed from time to time by the President; and the master of any vessel that shall permit, or allow, such vessel, as aforesaid, to leave any port of entry without obtaining a clearance, as herein provided, or that shall fraudulently subscribe any declaration, or affirm on oath that any declaration, as aforesaid, is true, when such master of such vessel knows the said declaration to be false, and the master of any vessel that shall depart from any place in the Kingdom with any customs or other Government officer on board without the consent of such officer shall be liable to a penalty not exceeding 1,000 dollars, nor less than 150 dollars, or, in default of payment, to imprisonment for any term not exceeding six months, nor less than six weeks.

54. Merchandise upon which duties have been paid may remain in warehouse in custody of the officers of customs at the expense and risk of the owners of such merchandise, and, if exported directly from such custody to a foreign country within three years, shall be entitled to return duties. But proper evidence of such merchandise having been landed abroad shall be furnished to the collector of customs by the importer, and 10 per cent of the duties shall be retained by the collector of customs. No merchandise for home consumption, nor wine, spirits, ale, beer, porter, tobacco, cigars, gunpowder, or sporting arms for exportation shall be withdrawn from any bonded warehouse or store in which it may be deposited in a less quantity than in an entire package, bale, cask, or box unless in bulk, nor shall merchandise so imported in bulk be delivered except in the whole quantity of each parcel, or a quantity not less than 1 ton weight, unless by special authority of the collector of customs.

*Shipment of stores.*

55. The master of every vessel of the burden of 30 tons register or upwards entering outwards to any place out of the Kingdom shall, upon due application made by him, receive from the proper officer of customs an account or victualling bill, which may be indorsed on the content or manifest of such vessel for the shipment or retention on board of such stores as he shall require, and as shall be allowed by the collector of customs for the use of such vessel, with reference to the number of the crew and passengers on board and the probable duration of the voyage upon which the said vessel is about to depart, and no articles taken on board any vessel shall be deemed to be stores except such as shall be specified in such account or victualling bill, or indorsed on the content or manifest of such vessel, as the case may be; and if any such stores shall be relanded in the Kingdom or removed from such vessel while within the waters of the Kingdom without the sanction of the proper officer of customs, and without passing entries for the same as for the like sort of goods imported as merchandise, they shall be forfeited, and the master shall for every such offence be liable to a penalty not exceeding 100 dollars, and any such stores so removed or relanded shall be forfeited; and if any vessel shall have on board any stores that, with the permission of the proper officer of customs, are to be retained on board such vessel for use in port or during any intended voyage, and if there is no proper or sufficient place on board such vessel for securing such stores to the satisfaction of the officer of customs, the officer may cause such stores to be removed to a Government bonded warehouse or to some other secure place at the expense of the master of the said vessel, and such goods shall be liable to the ordinary charges on goods in a Government bonded warehouse.

*Smuggling.*

56. It shall be lawful for any officer of customs to go on board any vessel at any place and at any time within the waters of the Kingdom and to search for or examine any goods in any part of such vessel, and to break open any cabin, hold, hatch, compartment, or any box, chest, or package, or any other place or thing, to search for any goods, if the keys of said cabin, hold, hatch, compartment, or of any box, chest, or package, or of any other place or thing, are not produced to such officer of customs by the master of the said vessel on the request of the officer of customs aforesaid, and any dutiable goods found therein shall be forfeited to the Crown, together with all other goods contained in the same packages, or used in concealing such dutiable goods; and such officer of customs may demand the content, or manifest, or other list of goods on board such vessel, and the list of stores and provisions for the same at the port she last quitted, as well as the clearance of such vessel from the port from whence she last sailed, and the bill of lading or shipping receipt for any goods found in such vessel, or any other document that may be required to identify any such goods; and the master of any vessel that shall refuse to deliver up to any officer of customs, as aforesaid, any key, or refuse or neglect to open any cabin, hold, hatch, or compartment, or any box, chest, or package or of any other place or thing as hereinbefore provided, or that shall refuse or neglect to produce any document demanded by such officer of customs, having reference to any goods or stores on board such vessel, or that shall refuse to bring such vessel to anchor at some port of entry on the request of such officer of customs, and any person that shall obstruct or molest any officer of customs in searching any vessel, or while on board or near any vessel, as aforesaid, shall be liable to a penalty not exceeding 1,000 dollars, nor less than 300 dollars, and, in default of payment, to imprisonment for any term not exceeding six months nor less than two months.

57. When any goods not included in any declaration made under section II hereof by the master of any vessel on her arrival in the port are found on board any such vessel by any officer of custom safter any declaration, as aforesaid, has been made hereof, or when any goods are found on board any vessel after a clearance has been granted in the Kingdom to such vessels that are not included in the content or manifest of such vessel, or in the list of stores at the same, and the presence of such goods on board is not satisfactorily accounted for to the said officer of customs, or when any officer of customs finds on any vessel any goods that such officer has reasonable ground for believing to have been imported into the Kingdom by some other vessel, and that duty has not been paid on such goods, it shall be lawful for any such officer of customs to seize such goods, and affix thereto or thereon such marks as he may deem necessary, and to remove or caused to be removed to the custom-house or to a Government bonded warehouse for the purpose of securing same, and unless the presence of such goods on board any vessel is satisfactorily accounted for, or unless it is proved that all customs dues have been paid on such goods, as the case may be, such goods shall be forfeited to the Crown, and the master of the vessel in which such goods were found shall be liable to a penalty not exceeding 1,000 dollars, nor less than



150 dollars, or, in default of payment, to imprisonment not exceeding six months, nor less than one month, provided always that any other person on board such vessel, whether such person is a passenger or one of the crew of the said vessel, may, instead of the master of such vessel, at the discretion of the President, be proceeded against for having in his possession, or for aiding or abetting in the concealing of any goods, as aforesaid, and any such person shall be liable for the penalty hereinbefore mentioned in this section.

58. It shall be lawful for the judge, on sworn information laid by the collector of customs, or by any other officer of customs deputed by such collector to issue a search warrant, to enable any officer of customs to enter upon and search any premises named in such warrant, and to enable such officer of customs to break open any place, box, case, safe, compartment, or any receptacle whatever in which any dutiable goods could be concealed, should the owner or occupier of such place, or the owner of such box, case, safe, compartment, or other receptacle, as aforesaid, not open the same without delay or hindrance to the said officer of customs; and such officer of customs may seize and remove to a custom-house or to a Government bonded warehouse any goods on which such customs officer has reasonable grounds for believing that no duty has been paid, or insufficient duty has fraudulently been paid; and the person in whose possession any such goods were found, or the occupier of any house or premises in or on which any such goods may be found, if the said goods were not found in the possession of any person other than such occupier, and unless such occupier can show that the goods aforesaid were in the possession of some person other than himself, shall, unless it is proved to the satisfaction of the court that all duties leviable on such goods have been paid, be liable to a penalty not exceeding 1,000 dollars nor less than 150 dollars, or, in default of payment, to imprisonment for any term not exceeding six months nor less than one month, and any such goods, as aforesaid, shall be forfeited to the Crown.

59. Any officer of customs may search any person on board any vessel in port, or any person who shall have been landed from any vessel, although such person may have declared that he has in his possession no dutiable goods, if such person is suspected by such officer of customs to have in his possession such goods, and may examine the traveling baggage or other effects, such officer of customs may, if considered necessary by him, detain such person until a warrant of arrest shall have been obtained for the same, or until sufficient security shall have been given for the appearance of such person when summoned to appear before a court, and any dutiable goods found, as aforesaid, shall be seized by the officer of customs finding the same; and any person on whom or among whose traveling baggage or other effects any such goods shall be found, as aforesaid, or any person in whose possession any goods so introduced into the Kingdom shall be found, shall be liable to the same penalty as that provided in section 57 of this ordinance, and any goods seized by any officer of customs, as aforesaid, shall be forfeited to the Crown; provided, that where any search is made upon a female it shall be conducted by a female.

60. It shall be lawful for any officer of customs, on reasonable suspicion or probable cause, to stop and to search any boat, whether licensed or otherwise, or any other means of conveyance used, or that might be used, for the carriage, removal, or transport of any goods by water, and to stop and to search any person, dray, cart, waggon, animal, or any other means of conveyance used, or that might be used, for the carriage, removal, or transport of any goods by land, and if no dutiable goods shall be found the officer shall not, on account of such stoppage and examination, be liable to any prosecution or action at law on account thereof; but if any dutiable goods, in respect of which no entry or declaration or any false entry or declaration has been made at any custom-house, or on which no duty or through fraud an insufficient amount of duty has been paid, are found by such officer of customs aforesaid, in any boat or on any other means of conveyance by water, or in any dray, cart, waggon, or on any person or on any animal or in or on any other means of conveyance by land, any such means of conveyance, and all such goods as aforesaid, and the person in the charge of the same, may be detained by such officer of customs; and the person in whose possession such goods were found, or the employer of such person, or the owner of such goods, shall, at the discretion of the President, be proceeded against; and if such person, such employer, or such owner can not prove that all duty leviable on such goods has been duly paid, then such person, employer, or owner, as the case may be, shall be liable to a fine not exceeding 1,000 dollars nor less than 150 dollars, or, in default of payment, to imprisonment for any term not exceeding six months nor less than one month; and any such goods, together with any boat, or with any dray, cart, waggon, animal, or any other means whatever used for or in the transport or conveyance of such goods by land or by water, shall be forfeited to the Crown; and any person who shall knowingly have given, or assisted to give, or deliver such goods to be conveyed, removed, or transported as aforesaid, and any person that shall have assisted to remove, convey, or transport such goods, knowing that the same were liable to the payment



of duty, and any person that shall have received or concealed such goods, or that shall have attempted to receive or conceal the same, shall be liable to a penalty not exceeding 500 dollars nor less than 150 dollars, or, in default of payment, to imprisonment for any term not exceeding three months nor less than one month.

61. Should any officer of customs, as provided in the last preceding section, demand the stopping of any boat or of any other means of conveyance, removal, or transport of any goods by water, or of any person, cart, waggon, or animal, or other means of conveyance, removal, or transport of any goods by land, any person in charge of, or in any way employed or aiding, or assisting in or about such means of conveyance, either by land or water, as aforesaid, that shall refuse or neglect to stop any such means of conveyance, or that shall refuse or neglect to permit an examination by such officer of customs of any such means of conveyance, and of any goods in or on or about the same shall, on conviction, be liable to a penalty not exceeding 1,000 dollars nor less than 150 dollars, or, in default of payment, to imprisonment for any term not exceeding six months nor less than one month.

62. If there should be found or be discovered to have been within 3 leagues of the coast of the Kingdom any vessel of the persons on board which not less than half are subjects of His Majesty, or if there be found or be discovered to have been within 1 league of the coast of the Kingdom any foreign vessel of the persons on board which less than half are subjects of His Majesty, or such vessel in either case shall be furnished with any false bulkhead, false bottom, false bows, false side, or with any secret, disguised, or concealed place or compartment of any description whatever, or with any hole, tube, pipe, or device for running goods in or about any part of such vessel, and having on board or having had on board, or landing or discharging or having landed or discharged, any prohibited goods or any dutiable goods contrary to the provisions of this ordinance, such vessel shall be forfeited, with any goods or appliances as aforesaid on such vessel; and every person found or discovered to have been on board such vessel liable to forfeiture, as aforesaid, within 3 leagues of the coast if a Samoan subject, or within 1 league if a foreigner, shall be liable to a penalty not exceeding 500 dollars.

63. When any vessel is found at any place within the waters of the Kingdom with any goods on board, and such vessel shall be afterwards found light or in ballast, and the master thereof is unable to give a due account of the legal discharge of such goods, or when any vessel is found at any place within the Kingdom, and the master thereof shall be unable to account for the legal discharge of any goods shipped on board such vessel, and entered in the content or manifest of the goods on board, or that were put on board the said vessel, or when any vessel belonging wholly or in part to His Majesty's subjects, or having one-half of the persons on board subjects of His Majesty, shall not bring to upon signal made by any vessel in His Majesty's service for protecting or securing the revenue by hoisting the paper pennant and ensign in order to bring such vessel to, and thereupon chase shall be given to secure the said vessel, and if during such chase any goods shall be thrown overboard, or in any other way destroyed, to prevent seizure thereof, the master of any vessel as aforesaid shall, on conviction, be liable to a fine not exceeding 2,500 dollars nor less than 500 dollars, or the said vessel may be forfeited to the Crown, either as an alternative penalty or in the event of the fine being unpaid.

64. When any dutiable goods are found in any package, box, or chest containing any other goods for which entries have been passed, such dutiable goods, if no entry has been passed therefor, and their presence before discovery by an officer of customs has not been disclosed by the owner of the same, shall be forfeited to the Crown, together with such package and all goods contained therein, unless the presence of such dutiable goods is satisfactorily accounted for to the President.

#### GENERAL PROVISIONS.

65. No duty shall be levied or collected upon any goods imported into this Kingdom for the use of His Majesty's Government, but an import entry shall be passed therefor, as provided in section 14 hereof, and a declaration made by some Government officer duly authorized, that such goods are intended for and will be used solely in the service of the Government. For any goods exported by the Government an export entry shall be passed by some Government officer in the manner provided in section 47 hereof.

66. Any master of a vessel who shall carry out of the Kingdom or receive or harbor on board of any vessel, with the intention of carrying out of the Kingdom any native of Samoa who shall not have exhibited to such master a permit issued by a Government officer authorizing such native to leave the Kingdom, shall, on conviction, be liable to a fine not exceeding 100 dollars, or, in default of payment, to imprisonment for any term not exceeding one month.

67. Any goods landed or to be landed or discharged from any vessel having commission from any foreign state shall be liable to the provisions of this ordinance

respecting the introduction into this Kingdom, and the landing, storing, or otherwise disposing of any goods as if such goods had been imported into the Kingdom, in any merchant vessel, subject, however, to the provisions of section 1, Article VI, of the Berlin general act, and in cases not provided for in the said section 1, Article VI, the captain or other officer having command on any vessel as aforesaid shall be held responsible for the due performance of all acts required under this ordinance in relation to any goods so landed or discharged, and may, on conviction for noncompliance with any of the provisions of this ordinance, be liable to the amount of any fine provided hereunder for the specific offence for which a conviction is obtained.

68. In any case in which any fine is inflicted and paid under any of the provisions of this ordinance, or in which any goods or any vessel or any animal or any article whatsoever is forfeited to the Crown, whether such forfeiture is made along with the infliction and payment of any fine or otherwise, any person giving such information to the collector or any other officer of customs as led to the detection of the offence in respect of which such fine was inflicted and paid, or such forfeiture made as aforesaid, may receive, at the discretion of the President, any sum not exceeding one-half of such fine as aforesaid, or one-half of the proceeds of sale after the payment of any duty and other lawful charges and necessary expences connected with such forfeiture as aforesaid: *Provided*, That the sum so paid to any person for such information shall not in any one case exceed 500 dollars: *And provided, also*, that at the discretion of the President, any part not exceeding one-half of the amount so paid to any person informing as aforesaid may be paid to any officer or officers of customs that may have rendered efficient service in securing the conviction on which such fine is paid or such forfeiture made. Any officer of customs discovering any offence against any of the provisions of this ordinance in respect of which any fine is paid or any forfeiture made, as aforesaid, may, as the discretion of the President, receive one-half of such fine and one-half of the net proceeds of any forfeiture as hereinbefore mentioned: *Provided*, That the sum so paid to any officer of customs in any one case shall not exceed 500 dollars.

69. Any person that obstructs, molests, or hinders, or resists any officer of customs in the execution of his duty, or that uses violent or threatening language to, or that attempts in any way whatever to intimidate such customs officer, or that endeavors by any bribe, threat, or promise to cause any such officer to neglect his duty, or that rescues or attempts to rescue any goods so seized by an officer of customs, shall, on conviction, be liable to a fine not exceeding 1,000 dollars nor less than 100 dollars, or, in default of payment, to imprisonment for any term not exceeding six months and not less than one month; and any person that assaults, or aids, abets, or assists in assaulting, or that procures or hires any person to assault, any officer of customs in the execution of his duty, shall, on conviction, be liable to a penalty of 500 dollars, or, in default, to imprisonment for three months.

70. Any offence against any of the provisions of this ordinance for which no specific penalty is provided shall render any person duly convicted of same liable to a fine not exceeding 300 dollars, or, in default of payment, to imprisonment for any term not exceeding three months nor less than seven days.

71. Whenever any person shall make application to any officer of customs to transact any business on behalf of any person, such officer may require the person so applying to produce a written authority from the person on whose behalf such application has been made, and in default of the production of such or some other proof of authority satisfactory to the said officer of customs, the officer may refuse to transact such business; and from any person acting generally as a custom-house agent the collector of customs shall demand such security as may be deemed necessary for the faithful and incorrupt performance by such person of all work undertaken by himself, or by any person employed by him connected with the customs department; and when such security has been given, notice that such person is a duly authorized custom-house agent shall be made.

72. It shall be lawful for the President, at his discretion, to accept from any person resident in the Kingdom, or from any firm or company doing business in the Kingdom, a bond, to be called a "general bond," to embrace and to be extended to all the transactions of such person, firm, or company requiring the execution of any bond or bonds under this ordinance. Such general bond shall cover a security in any sum, to be approved in each case by the President, and shall be signed by not less than two persons, to the satisfaction of the President, as co-obligants with the person, firm, or company from which such general bond is received. Such general bond may be made to extend over any period not exceeding twelve months. Notwithstanding anything contained in this ordinance, the collector of customs may dispense with any specific bond required under any section of this ordinance from any person, firm, or company from whom a general bond has been received, so long as such general bond is in full force and effect. Such general bond shall be in a form to be from time to time approved by the President.



73. In the construction of this ordinance, when anything or act has been done within a number of hours specified herein, in reckoning such hours in any prosecution under this ordinance Sundays and holidays shall be excluded.

74. Should any person make a false entry in any form, declaration, entry, bond, return, receipt, or in any document whatever required by or produced to any officer of customs under this ordinance, or should any person counterfeit, falsify, or willfully use when counterfeited or falsified, any documents required by or produced to any officer of customs, or should any person falsely produce to any such officer of customs under any of the provisions of this ordinance, in respect of any goods or of any vessel any document of any kind or description whatever that does not truly refer to such goods or to such vessel, or should any person make a false declaration to any officer of customs under any of the provisions of this ordinance, whether such declaration be an oral one, or a declaration subscribed by the person making it, or a declaration on oath or otherwise, or should any person not truly answer any reasonable question put to such person by any officer of customs under any of the provisions of this ordinance, or should any person alter or tamper with any document or instrument after the same has been officially issued, or counterfeit the seal, signature, or initials of or used by any officer of customs for the identification of any such document or instrument, or for the security of any goods, or for any other purpose under this ordinance, such person shall, on conviction for every such offence, unless where a specific penalty is herein provided, be liable to a fine not exceeding 1,000 dollars nor less than 250 dollars, or, in default of payment, to imprisonment for any term not exceeding six months nor less than two months.

75. The collector of customs is hereby authorized and empowered to administer an oath to any person for any purpose as provided in this ordinance, and any person making or subscribing falsely any declaration when under any oath so administered, or any person answering falsely when under any oath so administered by the collector of customs as aforesaid any reasonable question put by such collector, shall, in addition to any other penalty to which such person may be liable under this ordinance, be further liable to be prosecuted as for an ordinary case of perjury committed in any legally constituted court.

76. No compensation shall be made to the owner of any goods by the Crown by reason of any damage done, or loss occasioned thereto, in any Government bonded warehouse, or in any receiving store, by fire, or by any inevitable accident, or by felony.

77. Any officer of customs may, on the entry of any goods, or at any time before or afterwards, take samples of such goods for examination or for ascertaining the duties payable on the same, or for such other purposes as may be deemed necessary, and such samples may be disposed of or accounted for in such manner as the President may from time to time direct.

78. When the owner of any dutiable goods alleges that the goods have been damaged, and claims a rebate of customs dues thereon, it shall be lawful for the collector of customs, if such claim was made on the first examination of the goods, or when the same were first reported under this ordinance, and if it is proved to his satisfaction that such damage was sustained during the voyage of the importing ship to the Kingdom, and before the removal of the said goods from such ship, to appoint an expert, at the expense of the owner of such goods, to determine the value thereof, and if such goods are liable to an *ad valorem* duty, the duty shall be paid on such valuation, and if liable to a specific or general duty the duty shall be determined by the collector of customs on the valuation aforesaid; but if the owner of the goods is dissatisfied with the amount of duty so fixed, a final decision shall be given on the valuation of two experts as provided in section 41 hereof. All goods derelict, flotsam and jetsam, and wreck, brought or coming into the Kingdom, and all droits of admiralty sold therein, shall at all times be subject to the same duties as goods of the like kind on importation into the Kingdom are subject to.

79. "Dollars" and "cents," terms of money used in this ordinance, describe the standard money of the United States of America, or its equivalent in other currencies.

80. The president may make regulations for carrying into effect the provisions of this ordinance, which regulations may fix penalties for the breach of any of them not exceeding 50 dollars, and such regulations, after publication, shall have the same effect as if embodied in this ordinance.

#### *Legal procedure.*

81. Every suit or proceeding for the recovery of any duty or other charge leviable under this ordinance, or for the enforcement of any penalty, or for the forfeiture of any goods, vessel, or boat, or any other article, or for the satisfying of any bond or security under this ordinance, shall be entered in the name of the president.

82. When any officer of customs makes a declaration on oath before a judge that any person has been guilty of an offence against this ordinance, and that in the belief of such officer of customs there is reason to suspect that the said person would leave the Kingdom before any suit against him could be prosecuted in respect of an offence as aforesaid, such judge may issue a warrant to apprehend such person, and may require the same to give security by recognizance or otherwise for his appearance when called upon for the hearing of his case, and, in default of such security, may commit such person to gaol or to the custody of the police till the hearing of the case against such person.

83. When any penalty is incurred under this ordinance, severally or jointly, by more than one person, such persons may be proceeded against jointly or severally as the President may deem fit, and in case of a proceeding against several persons by joint information for the recovery of any penalty severally incurred by each of such persons, such penalty shall be recoverable against each of the said persons not acquitted, notwithstanding that one or more of such persons may have allowed judgment to go by confession or default, or that the penalty imposed upon one or more of such persons is different from the penalty inflicted on any other or others of the said persons; and every judgment shall be valid and effectual against any of the persons so jointly proceeded against for the full amount of the penalty inflicted on any one of such persons respectively.

84. Any information laid before a judge for any offence committed against, or forfeiture incurred, or for the satisfying of any bond or security under this ordinance, may be in the form and to the effect that the circumstances of each case require, and no information, summons, conviction, or warrant, or forfeiture shall be held void by reason of any defect therein, and no person shall be entitled to be discharged out of custody on account of such defect, provided it be alleged in the warrant that the said person has been convicted of an offence as aforesaid, and provided it shall appear to the court before which such warrant is returned that such conviction proceeded on good and valid grounds.

85. When any information is laid before a judge for any offence against this ordinance by which it is sought to inflict any penalty or to recover any forfeiture, or to satisfy any bond or security, and such information shall have been laid within three years next after the date when such offence was committed, such judge may at that time, or at any time afterwards, issue his summons or warrant for the purpose of causing the person or persons named therein to appear at such time or place as may be directed in the said summons or warrant to be dealt with according to law.

86. When any information shall have been laid before a judge for the forfeiture of any goods, vessel, boat, or any other conveyance, or of any article whatsoever seized under this ordinance, such judge shall issue his summons to the person or persons owning or claiming such goods, vessel, boat, or other conveyance, or other article, to appear in support of his claim to the same, and upon such appearance, or in default, after due proof of the service of the summons, a reasonable time before the hearing the court may proceed to inquire into the matter, and shall condemn such goods, vessel, boat, or other conveyance, or other article as aforesaid, or make such order as the circumstances require, but should the owner or owners of such goods, vessel, boat, or other conveyance, or other article, remain unclaimed for one month they shall then be condemned by the court.

87. If in any prosecution in respect of any goods seized for nonpayment of duties or any other cause of forfeiture, or for the recovery of any penalty or penalties under this ordinance any dispute shall arise whether the duties of customs have been paid in respect of such goods, or whether the same have been lawfully imported into the Kingdom, or lawfully unshipped, or concerning the place from whence such goods were brought there, and in every such case the proof thereof shall lie on the defendant in such prosecution, and the defendant shall be competent and compelled to give evidence, and any goods of a description admissible to duty seized under any provision of this ordinance, or by any customs officer, on any vessel or at any place whatsoever in the Kingdom or within the waters of the Kingdom, shall in any proceeding before a judge for the forfeiture of such goods, or for the infliction of any penalty incurred in respect thereof, be deemed and taken to be goods liable to and unshipped without payment of duties, unless the contrary be proved, and the evidence of any person acting as an officer of customs in any proceeding relating to customs or undertaken under this ordinance was duly authorized, shall be presumed until the contrary is proved.

88. No claim or appearance shall be permitted to be entered to any information for the forfeiture of any goods, ship, boat, or other conveyance, or other article seized for any cause of forfeiture under this ordinance, unless such claim or appearance be made by or in the true name or names of the owner or owners thereof, and oath shall be made by such owner or owners, or by one of them, or by his or their agent or agents, that the said goods, ship, boat, or other conveyance, or other article are the true and lawful property of such owner or owners, and every person



convicted of making a false oath as to such facts shall be deemed guilty of perjury and shall be held liable to the punishment thereof.

89. In any suit or procedure for forfeiture of any goods, ship, boat, or other conveyance, or of any other article, if a verdict shall be found for the claimant thereof, the judge may certify that the seizure of such goods, ship, boat, or other conveyance or article was reasonable and for possible cause, and such certificate shall be a bar to all future proceedings against any officer of customs making such seizure, and against the Crown in connection with such seizure.

90. No action shall be commenced against any officer of customs or other person acting with due authority under this ordinance for anything done in the execution of his duty or by reason of his office until one month next after notice in writing shall have been delivered to such officer or other person, or left at his usual place of abode, and if any such action shall be commenced without such notice having been given, and if the court or judge shall be satisfied by affidavit or otherwise that such action is brought on account of some act, matter, or thing done in execution of or by reason of the defendant's office, such action shall be stayed.

91. Any such action against any officer, as aforesaid, shall be commenced within three months after the cause of action shall have arisen, and if such action be brought in respect of any seizure made by such officer, such cause of action shall not be deemed to have arisen until the day after the trial of the information with respect to such seizure.

Passed, Mulinuu, this 25th day of April, in the year of our Lord 1892.

MALIETOA.

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*Mr. Herbert to Mr. Foster.*

NEWPORT, *September 19, 1892.*

SIR: With reference to your note of the 15th ultimo, I have the honor to inform you, in accordance with instructions which I have received from the Earl of Rosebery, that Her Majesty's consul at Apia has been instructed to endeavor, in concert with his German and United States colleagues, to effect with the president of the municipal council a speedy and amicable settlement of the question which has been raised as to whether the pound sterling and the twenty-mark gold piece should be received as the equivalent of \$4.76 or \$5 United States currency.

I have the honor, etc.,

MICHAEL H. HERBERT.

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*Mr. Herbert to Mr. Foster.*

NEWPORT, *September 19, 1892.*

SIR: I have the honor to inform you that Her Majesty's Government have received a communication from the president of the municipal council at Apia respecting the audit of his accounts and those of the Samoan Government, as to which a difference of opinion has arisen between him and the members of the municipal board.

By section 5 of Article v of the final act of the conference on the affairs of Samoa it is provided that the president "shall be the receiver and custodian of the revenues accruing under the provisions of this act, and shall render quarterly reports of his receipts and disbursements to the King and to the municipal council."

It appears that the auditors of the accounts appointed by the municipal council consider it necessary for audit purposes that the cash in the treasury at the time of audit should be verified.

With this view Her Majesty's Government are disposed to agree, for it is evident that there can be no effective audit unless the auditors are permitted to count the cash in hand.

But Baron Senfft von Pilsach objects that, as the funds both of the Government and of the council are paid into one account, this could not well be done without showing to the auditors the moneys in hand belonging to the Samoan Government, which would be tantamount to allowing the municipal auditors to audit the accounts of the Government.

He observes, however, that this difficulty could be met by keeping the revenues of the municipal council distinct from those of the Samoan Government, and it appears to Her Majesty's Government that this would be the best course to adopt.

As Baron Senfft von Pilsach states that, availing himself of the provisions of the final act, he desires to obtain a joint instruction on the subject from the three treaty powers, Her Majesty's Government are anxious to learn the views of the U. S. Government in regard to this question, and to ascertain what answer they propose to return to the similar application which it is presumed that the president of the municipal council has addressed to them in this matter.

I have the honor to be, etc.,

MICHAEL H. HERBERT.

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*Mr. Herbert to Mr. Foster.*

NEWPORT, September 19, 1892.

SIR: I have the honor to inclose herewith an extract from a letter from Baron S. von Pilsach, the municipal president at Apia, respecting a difference of opinion which has arisen between the consular body and the majority of the municipal council, including the president, in regard to the appointment of returning officers for municipal elections.

Baron von Pilsach maintains that under article 5, section 3, of the Samoan act the question should be referred for decision to the chief justice, and not to the treaty powers, and Her Majesty's Government are disposed to think that the municipal president is, in this instance, correct in his interpretation of the act.

In accordance with instructions which I have received from the Earl of Rosebery, I have the honor to inquire whether Baron von Pilsach has addressed a similar communication to the U. S. Government; and, if so, whether they agree with the view taken by Her Majesty's Government, and will instruct their consul at Apia accordingly.

I have the honor to be, etc.,

MICHAEL H. HERBERT.

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I regret that I must report a new case to the three governments in which the consular board has disregarded the provisions of the Berlin treaty.

There exists a difference of opinion between that body and the majority of the municipal council at Apia including myself in regard to the appointment of the returning officers for municipal elections. If the consular board desired this difference to be settled, such settlement fell apparently into the exclusive jurisdiction of either the chief justice or the supreme court of Samoa.

In a letter to the municipal council dated 9th inst., the consular board stated that Mr. Blacklock had informed the board of the aforesaid question having been referred to him by the U. S. Government.

Instead of reminding Mr. Blacklock that in the Berlin treaty the signatory powers have bound each other to refrain from any separate control on Samoan affairs and have established a special court for the purpose of meeting all requirements of administrative jurisdiction on the spot, Mr. Blacklock's colleagues have joined in his oversight by resolving and signing the above-mentioned notification to the municipal council.



*Mr. Foster to Mr. Herbert.*

DEPARTMENT OF STATE,  
*Washington, September 24, 1892.*

SIR: I have the honor to acknowledge the receipt of your note of the 19th instant relative to a communication which Her Majesty's Government has received from the president of the municipal council at Apia, with respect to the audit of its accounts and those of the Samoan Government, and to inform you that I have received a like communication from Baron Senfft von Pilsach.

This Government is disposed to agree with the Government of Her Majesty that the best course to adopt would be to keep the revenues of the municipal council distinct from those of the Samoan Government in order that the audit of their accounts may include a verification of the cash balances. The Government of the United States would be willing to join with the Government of Her Majesty and the Government of Germany in such an instruction to the president of the municipal council.

I have, etc.,

JOHN W. FOSTER.

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*Mr. Foster to Mr. Herbert.*

DEPARTMENT OF STATE,  
*Washington, September 26, 1892.*

SIR: I have the honor to acknowledge the receipt of your note of the 19th instant inclosing an extract from a letter from the president of the municipal council of Apia respecting a difference of opinion which has arisen between the consular board and the municipal council regarding the appointment of returning officers for municipal elections, and to say that a similar communication has been received from Baron Senfft von Pilsach. This Government understands the question at issue to be whether or not an appointment by the municipal council of a returning officer under an election ordinance approved by the consular board must also have the approval of that board, the latter contending that such approval is necessary and the former that it is not. In this matter the Government of the United States is disposed to agree with Her Majesty's Government that the question is properly one for the decision of the chief justice, and it will so instruct its consul.

I have, etc.,

JOHN W. FOSTER.

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*Mr. Foster to Mr. Herbert.*

DEPARTMENT OF STATE,  
*Washington, September 27, 1892.*

SIR: I have for sometime had under consideration a communication addressed to the Secretary of State by Baron Senfft von Pilsach, the president of the municipal council of Apia, renewing the tender of his resignation and urging its acceptance.

I have also received a note from the imperial German chargé d'affaires, communicating the intention of the Imperial Government to refuse the renewed request of Baron Senfft, there being, in its judgment, no occasion to reverse its former decision, and inviting the acquiescence of this Government in so doing.

Being disposed to regard the first tender of Baron Senfft's resignation, in October, 1891, as a hasty act, this Government was well disposed to offer no impediment to the course which the other powers adopted in urging its withdrawal, and the hope was moreover indulged in that the undesirable friction which had unfortunately developed between the chief officials of the Samoan administration might soon disappear.

In view, however, of the declaration now made by Baron Senfft von Pilsach, that nothing has occurred that could have weakened the reasons of his first request and sharing his frankly expressed belief that "frictions between those officials would be more prejudicial to the working of the Berlin treaty than any other frictions," and while regretting the baron's insistence upon his purpose, I am disposed to make no effort to overcome his manifest reluctance to continue in the high office to which he had been appointed by the concurrent action of the three powers.

Before responding in this sense, however, I have the honor to inquire what view of the situation is held by Her Majesty's Government.

I have, etc.,

JOHN W. FOSTER.

*Mr. Foster to Mr. Herbert.*

DEPARTMENT OF STATE,  
Washington, September 27, 1892.

SIR: I have the honor to send you a copy of a note under date of August 13 which I have received from the German chargé in this city, relative to a proposed fee of \$5, which it is understood the chief justice of Samoa intends to impose for the registration of every separate title to land. I also inclose a copy of my reply, and should be glad to be informed of the opinion of Her Majesty's Government upon this subject.

I have, etc.,

JOHN W. FOSTER.

*Mr. Herbert to Mr. Foster.*

WASHINGTON, September 27, 1892.

SIR: With reference to my note of the 19th instant, I have the honor to transmit for your information copies of the correspondence noted in the margin respecting the difference of opinion which has arisen between the consular board at Apia and the majority of the municipal council, including the municipal president, in regard to the appointment of the returning officers for municipal elections.

I have, etc.,

MICHAEL H. HERBERT.



[Inclosure.]

*Mr. Trench to the Earl of Rosebery.*

BERLIN, September 10, 1892.

**MY LORD:** Upon the receipt of your lordship's dispatch, No 191, of the 30th ultimo, respecting the difference of opinion which has arisen in Samoa between the president of the municipal council and the consular body in regard to the appointment of returning officers for municipal council and the consular body in regard to the appointment of returning officers for municipal elections, I took, in the absence of Sir E. Malet, occasion to mention the matter to the acting minister for foreign affairs, and, at Baron von Rotenhan's request, furnished him with a memorandum of the contents of your lordship's dispatch above referred to.

I have now received from the colonial department of the imperial ministry for foreign affairs a note verbale, copy and translation of which I have the honor to inclose herewith, in which the circumstances attending this difference of opinion are discussed, the conclusion being that the Imperial Government will gladly follow the suggestions of Her Majesty's Government, and will issue confidentially the desired instructions to their consul at Apia.

I have, etc.,

P. LE POER TRENCH.

MINISTRY OF FOREIGN AFFAIRS, COLONIAL DEPARTMENT,

*Berlin, September 8, 1892.*

The imperial ministry of foreign affairs has the honor to inform Her Majesty's embassy, with reference to the memorandum of the 3d instant that they also have received a complaint from the president of the municipal council at Apia regarding the action of the consular body.

The Imperial Government share the opinion that according to Article v, section 3, of the general act of Berlin, the consular body can not as a rule postpone coming to a decision in regard to the resolutions of the municipal council on the ground that one or another of the consuls is awaiting instructions from his government. Nevertheless the consular body has frequently before now imposed delays on grounds of expediency without any protest being raised on the part of the municipal council. In a recent case connected with the issue of certain penal regulations the municipal council had on the contrary declared their agreement to a postponement suggested by the German consul for the express reason that instructions might be received. If in the present instance the municipal council contrary to their usual practice objected to a delay they were in a position if they chose to bring the matter before the chief justice for decision in the manner prescribed by the general act. It appears moreover that in this case also the municipal council has raised no objection to the treatment of the question by the consular board and that the complaint of Baron Senfft von Pilsach is the outcome rather of personal initiative. All this might be held to constitute a sufficient reason for dissenting from Baron von Senfft's opinion, but the imperial ministry of foreign affairs will, notwithstanding, gladly follow the suggestion of Her Majesty's Government and will issue confidential instructions to the imperial consul at Apia to have an eye in future to the greatest possible expedition in the dispatch of business by the consular board.

FOREIGN OFFICE, September 14, 1892.

**SIR:** I am directed by the Earl of Rosebery to transmit to you the accompanying extract from a letter from Baron S. von Pilsach, the municipal president of Apia, respecting the difference of opinion which has arisen between the consular board and the majority of the municipal council, including the president, in regard to the appointment of the returning officers for municipal elections.

Baron von Pilsach maintains that under section 3, Article v, of the final act the question should be referred for decision to the chief justice and not to the treaty powers.

Her Majesty's Government are of opinion that the municipal president is in this instance correct in his interpretation of the act. The provision in question appears to have been expressly designed to prevent excessive delay in matters of administrative detail and to expedite the dispatch of business by the consular board at Apia. You will accordingly take the necessary steps to refer the question to the chief justice as soon as your German and United States colleagues receive instructions from their respective governments to a similar effect, and you will inform Baron von Pilsach of the above decision.

I am, etc.,

P. CURRIE.

I regret that I must report a new case to the three governments in which the consular board has disregarded the provisions of the Berlin treaty.

There exists a difference of opinion between that body and the majority of the municipal council of Apia, including myself, in regard to the appointment of the returning officers for municipal elections. If the consular board desired this difference to be settled such settlement fell apparently into the exclusive jurisdiction of either the chief justice or the supreme court of Samoa.

In a letter to the municipal council dated the 9th instant the consular board stated that Mr. Blacklock had informed the board of the aforesaid question having been referred by him to the U. S. Government.

Instead of reminding Mr. Blacklock that in the Berlin treaty the signatory powers have bound each other to refrain from any separate control on Samoan affairs and have established a special court for the purpose of meeting all requirements of administrative jurisdiction on the spot, Mr. Blacklock's colleagues have joined in his oversight by resolving and signing the above-mentioned notification to the municipal council.

I have, etc.,

FRHR. SENEFF VON PILSACH.

*Mr. Herbert to Mr. Foster.*

BRITISH LEGATION,  
Washington, September 27, 1892.

SIR: According to instructions which I have received from my Government, I have the honor to inclose for your information copies of correspondence which has passed between the foreign office and the German embassy in London in regard to the "real-property ordinance, 1891," issued by the chief justice of Samoa.

You will observe from correspondence that the action of the chief justice was, in the opinion of the law officers of the Crown, *ultra vires*, and that the British consul in Samoa has been instructed in that sense.

I have, etc.,

MICHAEL H. HERBERT.

*Count Hatzfeldt to Earl of Rosebery.*

GERMAN EMBASSY, London, August 14, 1892.

MY LORD: As your excellency is doubtless aware, the Samoa treaty provides that land claims put forward by foreigners shall be brought before the land commission established at Apia to be examined and eventually registered. It appears from a fee table issued by the chief judge of Samoa that he contemplates levying a fee of \$5 on the registration of each single land title, the proceeds of which fee will go to Dr. Hagber, a Swedish subject, who has been appointed by the chief judge to be registrar, and who is at the same time clerk to the court. Some 3,000 land titles will, on a rough estimate, have to be registered. This number would give Dr. Hagberg \$15,000. But such a burden represents a heavy burden on all foreign landed interests, especially on such persons as hold several parcels of land. The latter class would in certain particular cases have to pay very considerable sums. The Plantations Company, for instance, has put in 1,198 claims; Harris & MacFarlane, an English firm, 460, etc. If 1,000 and 400 of these claims are respectively recognized as valid the firms named would have to pay 21,000 marks and 8,400 marks, respectively.

The registration fee will press still more, and still more unjustly on the holders of several small parcels of land than on the large land holders. The want of any proper relation between the value of the land and the amount of the fee is in such cases still more apparent, for in particular cases the fee would exceed 10 per cent of the value. Plots of ground outside Apia, which are often the only property of their owners, not seldom yield little or nothing beyond the small amount of produce on which the owners live, and they will in many cases be quite unable to pay the heavy fees without mortgaging their land.

According to the view of the Imperial Government the chief judge has no power to impose such a tax on foreigners of his own authority. Article VI, section 2, D2,



of the Samoa treaty, provides that a tax of one-half per cent shall be levied "upon deeds of real estate, to be paid before registration thereof can be made." It is to be assumed that with such payment the liability of foreign land holders on account of registration will terminate. According to Article VI, section 2, further charges beyond the one-half per cent may not be imposed unless with the concurrence of the consuls of the three treaty powers. Such concurrence has as yet neither been sought nor given, and in view of the disproportionately high figure of the fee would hardly be obtained.

The Imperial Government is unable for the present to recognize the fee imposed by the chief judge of his own authority on foreigners as binding in law, and is of opinion that this course is not contrary to Article III, section 1, of the Samoa treaty, which provides that suitable fees may be allowed to the clerk and to the marshal of the court.

The chief judge may fix the amount of such fees, but so long as the consuls have not concurred in them such fees may not be a charge on foreign land owners; they should rather be defrayed by the Samoan Government, who can in the circumstances supposed deduct them from the one-half per cent tax. The Imperial Government proposes to instruct the consul at Apia in this sense; but before taking action they would be glad to receive information as to the view taken by Her Britannic Majesty's Government, and as to whether that Government would be prepared to issue similar instructions to their representative at Apia, in order that foreign settlers in Samoa may be protected by common action against the considerable and unjustifiable injury which would be caused by the measure taken by the chief judge to the profit of an official of his own appointing.

Under the instructions which I have received I have the honor to bring the above to your excellency's knowledge, and to ask for an expression of the opinion of Her Britannic Majesty's Government on this matter, and also whether your excellency would be inclined to give to the English representative at Apia instructions similar to those which the Imperial Government propose to send to their consul.

I have, etc.,

P. HATZFELDT.

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*Earl of Rosebery to Count Hatzfeldt.*

FOREIGN OFFICE, *September 13, 1892.*

M. L'AMBASSADEUR: Her Majesty's Government have given their attentive consideration to your excellency's note of the 14th ultimo, stating the objections entertained by the German Government to a fee for the registration of land titles which has been imposed by the chief justice of Samoa under an ordinance entitled the "Real-property ordinance, 1891," and asking for the views of Her Majesty's Government upon the subject.

Her Majesty's Government are advised by the law officers of the Crown to whom your note was referred, that the issue of this ordinance by the chief justice was *ultra vires*, and they have instructed the British consul at Samoa in this sense.

It seems desirable that a collective communication should be made by the consuls of the three treaty powers to the chief justice, and Mr. Cusack-Smith will be authorized to take part in it as soon as your Government has arranged with the U. S. Government for the cooperation of their consul.

I have, etc.,

ROSEBERY.

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*Mr. Herbert to Mr. Foster.*

BRITISH LEGATION,  
*Washington, September 27, 1892.*

SIR: With reference to my previous note of this date, I have the honor, in obedience to instructions which I have received from the Earl of Rosebery, to transmit for your information copies of correspondence, as noted in the margin, relative to the reported intention of the chief justice of Samoa to make the registration of land titles in these islands dependent on a previous survey to be carried out at the cost of the parties interested.

It will be seen from this correspondence that Her Majesty's Government concur with the German Government in the opinion that this step should not receive the sanction of the treaty powers and they have accordingly instructed Her Majesty's consul at Apia to make a communication in that sense to the chief justice if he should move further in the matter.

I have, etc.,

MICHAEL H. HERBERT.

*Count Hatzfeldt to the Earl of Rosebery.*

GERMAN EMBASSY, London, September 3, 1892.

MY LORD: In continuation of my note of the 14th ultimo respecting the land commission in Samoa, to which your excellency returned a provisional reply on the 27th ultimo, I have the honor, under the instructions I have received, to state as follows:

It appears from the reports received from the Imperial consul at Apia that the chief justice intends to make the registration of each title to land dependent on a preliminary survey of the land, to be made at the expense of the interested parties.

The Imperial Government is of opinion that no survey is necessary, and that it can not be required under the provisions of the Samoa act, the 4th acticle (section 7) of which speaks merely of a registration of the land titles. Apart from this consideration it is, however, clear that such a procedure, as far as the local circumstances make its execution at all possible, would delay the settlement of the land question in Apia in a most undesirable manner and would throw disproportionate costs on those interested in the land. The Swedish official appointed by the chief justice would alone derive any real profit from the survey in question. The Imperial Government intends, therefore, not to sanction it, and to send instructions in this sense to the Imperial consul at Apia. The Imperial Government hope that Her Britannic Majesty's Government will furnish similar instructions to their representative in Apia.

I have, etc.,

P. HATZFELDT.

*Lord Rosebery to Count Hatzfeldt.*

FOREIGN OFFICE, September 13, 1892.

MONS. L' AMBASSADEUR: With reference to my previous note of this date relative to the "real-property ordinance, 1891," issued by the chief justice of Samoa, I have, etc., to acknowledge the receipt of your communication of the 3d instant respecting the proposed further action of the chief justice in regard to the registration of land titles.

Your excellency states that M. de Cedererantz contemplates making the registration dependent in each case upon a preliminary survey, to be made at the cost of the party interested, and you explain the reasons which lead the German Government to consider such a survey to be unnecessary in itself, as well as calculated to entail undesirable delay and to throw disproportionate expense on the persons concerned. You add that they propose, under these circumstances, to withhold their sanction from the measure and to instruct the German consul at Apia to that effect.

I have the honor to acquaint your excellency that Her Majesty's Government concur in these views and that Her Majesty's consul at Apia will be instructed in a similar sense.

I have, etc.,

ROSEBERY.

*Mr. Currie to Consul Cusack-Smith.*

FOREIGN OFFICE, September 13, 1892.

SIR: Lord Rosebery is informed by the German Government that it is the intention of the chief justice of Samoa to make the requisition of land titles dependent on a previous survey, to be made at the cost of the party interested.

The German Government consider this proceeding to be unwarranted by the provisions of the final act, and they are of opinion that it is unnecessary in itself as



well as calculated to entail undesirable delay and to throw disproportionate expense on the persons concerned.

The German consul at Apia will, accordingly, be instructed to inform the chief justice that the German Government must withhold their sanction from the measure.

Her Majesty's Government concur in the views of the German Government upon this point, and I am to instruct you to act in concert with your German colleague in any communications which it may be necessary to make to the chief justice if he should move further in the matter.

I am,

P. CURRIE.

*Mr. Foster to Mr. Herbert.*

DEPARTMENT OF STATE,

*Washington, September 28, 1892.*

SIR: I have the honor to acknowledge the receipt of your note of the 19th instant, in reply to Mr. Adees note of August 15 in which you inform me that Her British Majesty's consul at Apia "has been instructed to endeavor, in concert with his German and United States colleagues, to effect with the president of the municipal council, a speedy and amicable settlement of the question which has been raised as to whether the pound sterling and the 20-mark gold piece should be received as the equivalent of \$4.76 or \$5, United States currency."

The Government of the United States had supposed that an understanding upon this subject with reference to the 20-mark gold piece was reached at this Department with the German chargé in March last, by which it was to be received as the equivalent of \$4.76. It was upon the basis of such an understanding that this Government instructed its consul to cooperate with his German and British colleagues in favor of the admission of German coin into Samoa. It is well understood that the 20-mark gold piece and the pound sterling are not, nor were they intended to be, the equivalent of \$5; nor is either the equivalent of the other. To arbitrarily declare them such is an entire disregard of the fact and in contravention of the terms of the treaty.

Section 4, of Article VI, clearly forbids the reception of other currencies at more than their equivalent in "the standard money of the United States of America." Baron Senfft von Pilsach not only receives the pound sterling and the 20-mark gold piece at more than their equivalent value, but his action goes to the extent of substantially making them units of value, which the treaty equally precludes. The consular board and the municipal council in August 1891, agreed upon a basis of exchange which represents substantially the exchange value of these coins. It made the pound sterling the equivalent of \$4.86 and the 20-mark gold piece the equivalent of \$4.76. Their equivalent values, according to the regulations of the Treasury of this Government, are for the pound sterling, \$4.8665, and for the 20-mark gold piece, \$4.76. It is reported that many of the merchants at Apia receive the 20-mark gold piece at \$4.75 and pay it into the Treasury for duties at \$5.

I hope that the Government of Her Majesty will be pleased to cooperate with the Government of the United States in securing an observance of the treaty in this regard which plainly establishes the coin of the United States as the unit of value in Samoa and permits other coin to be taken at their equivalent value only.

I have, etc.,

JOHN W. FOSTER.

*Mr. Foster to Mr. Herbert.*

DEPARTMENT OF STATE,  
*Washington, September 29, 1892.*

SIR: With respect to your note of August 26 with two inclosures relative to a difference of opinion which has arisen as to the appointment (*sic*, apportionment) of the import and export duties in Samoa leviable under Article VI of the Berlin general act, I have the honor to call your attention to the fact that its second inclosure, viz, a copy of your note from the Marquis of Salisbury to Count Hatzfeldt dated August 12, does not relate to the foregoing subject but is presumed to have reference to the dispatch of Her British Majesty's consul in Apia dated May 26, a copy of which you transmitted to me in your note of July 11. As you inquired whether the views of Her Majesty's Government, as explained in the correspondence, meet with the concurrence of this Government, I am led to believe that a part of it must have been inadvertently omitted.

I have, etc.,

JOHN W. FOSTER.

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*Mr. Foster to Mr. Herbert.*

DEPARTMENT OF STATE,  
*Washington, September 29, 1892.*

SIR: With further reference to your note of July 11, in which you transmitted to me a copy of a dispatch dated May 26, received by Her Majesty's Government from its consul at Apia, I have the honor to inclose herewith a copy of a note dated July 29, which I have received from the German chargé regarding the same subject. I also inclose a copy of my reply thereto which substantially accords with the views expressed by the Marquis of Salisbury in his note to Count Hatzfeldt, of August 12, a copy of which you transmitted to me in your note of August 26.

I have, etc.,

JOHN W. FOSTER.

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*Mr. Foster to Mr. Herbert.*

DEPARTMENT OF STATE,  
*Washington, September 30, 1892.*

SIR: I have the honor to acknowledge the receipt of your note of the 27th instant, with which were inclosed copies of the correspondence between the foreign office and the German embassy in London, in relation to the "real-property ordinance, 1891," issued by the chief justice of Samoa.

I have, etc.,

JOHN W. FOSTER.



*Mr. Foster to Mr. Herbert.*

DEPARTMENT OF STATE,  
Washington, October 1, 1892.

SIR: I have the honor to acknowledge the receipt of your note of the 27th ultimo, with which were inclosed copies of the correspondence between Her Majesty's Government and that of the German Empire respecting the difference of opinion which has arisen between the consular board at Apia and the majority of the municipal council, including the municipal president, in relation to the appointment of the returning officers for municipal elections.

I have, etc.,

JOHN W. FOSTER.

*Mr. Foster to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, October 4, 1892.

SIR: With reference to your note of September 27th transmitting copies of correspondence with the German Government relative to the reported intention of the chief justice of Samoa to make the registration of land titles in those islands dependent on a previous survey, to be carried out at the cost of the parties interested, I have the honor to inform you that this Government has received a similar representation from Baron Ketteler.

I inclose herewith, for your information, a copy of my reply thereto.  
I have, etc.,

JOHN W. FOSTER.

*Mr. Herbert to Mr. Foster.*

BRITISH LEGATION,  
Washington, October 5, 1892.

SIR: With reference to my note of the 19th ultimo, I have the honor by direction of my Government to transmit, for your information, copy of a dispatch from Her Majesty's consul, at Samoa, relative to the audit of the accounts of the Samoan Government and the Apia municipality.

I have, etc.,

MICHAEL H. HERBERT.

[Navigator's Islands, September 15. Confidential, 225; section 3.]

No. 1.

*Consul Cusack Smith to the Marquis of Salisbury.*

No. 26.]

SAMOA, August 16, 1892. (Received September 15.)

MY LORD: I have the honor to report that Baron Senfft von Pilsach, in a letter dated the 23d December, 1891, copy inclosed, to the then acting chairman of the municipal council, refused to carry out a resolution of the council ordering the withdrawal of the moneys deposited by the president in his own name in a bank in Sydney. The position he assumed was an extraordinary one. After stating, that in his opinion,

there was only one treasury common both to the Samoan Government and the municipality instead of a distinct treasury for each, he proceeds: "Neither the Samoan Government are entitled to interfere in the same, the treasury containing moneys held for the use of the municipal council of Apia, nor the municipal council, considering that the treasury comprises moneys to be used by the Samoan Government."

Having shaken off all control or interference, he admits that "the treasurer is subject to the orders of payment made by the council, but not to any instructions concerning the administration of the treasurer. He further tells the municipal council, "You will find that even the treasurer's quarterly reports must show his receipts and disbursements, but not his administrative measures."

A profound feeling of dissatisfaction and uneasiness was aroused on this notification that the municipal balance was not to be kept separate, and that it might entirely be swallowed up, except on paper, at any time by the requirements of the Samoan Government.

On appeal to the chief justice, in a lengthy judgment he decided that Baron Senfft von Pilsach "was justified in refusing to accept the instructions of the municipal council."

Here the matter might have rested, but that this week the inclosed report of the municipal auditors has been laid before the consular board.

It states that "there should have been on the 31st March, 1892, a balance of 5721," but that the auditors were unable to certify to the correctness of the cash, as "they were not allowed to check it."

There is no bank in Samoa, and the only way in which public confidence can be maintained is by verifying the cash balances at every audit.

The financial administration of the funds of the municipal council and of the Samoan Government should be kept quite distinct, and nothing done to raise unnecessary distrust.

I have, etc.,

T. B. CUSACK-SMITH.

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[Inclosure 1 in No. 1.]

*Baron Senfft von Pilsach to the municipal council, Apia.*

APIA, SAMOA, December 23, 1891.

GENTLEMEN: I have the honor to acknowledge receipt of your letter, dated the 11th instant, through which you notify to me a resolution passed by the municipal council of Apia on the 25th November, and approved by the consular board, saying that the treasurer be instructed to withdraw the municipal moneys from the Union Bank, Sydney, as soon as the terms of deposit have expired, and to deposit the same in United States gold in the municipal treasury in Apia.

In reply, I beg to state that in passing this resolution the municipal council have transgressed their competency as it is laid down in Article v, section 3, of the Berlin general act. According to this article there exists neither a special treasurer nor a special treasury of the municipal council of Apia. All the revenues accruing under the provisions of this act (*see* Article v, section 5, fourth clause) are paid into the treasury (Article vi, section 3), the administration of which is intrusted to one treasurer to be appointed, not by the municipal council, but by the Samoan Government upon the previous agreement of the signatory powers. A municipal treasury does not exist but in the ledgers and accounts of the treasury.

The treaty having thus constituted one treasury comprising the whole of the Samoan revenue, apparently its administrator must be guided also on one way.

Neither the Samoan Government are entitled to interfere in the same, the treasury containing moneys held for the use of the municipal council of Apia nor the municipal council, considering that the treasury comprises moneys to be used by the Samoan Government.

The treasurer is subject to the orders of payment made by the council, but not to any instructions concerning the administration of the treasurer. You will find that even his quarterly reports must show his receipts and disbursements, but not his administrative measures, although the matter of the resolution which you have forwarded to me has been under my consideration before I received your communication.

Yet I must refuse to accept such instructions, the formal want of which I have stated is not the only reason for my doing so, as the respective resolution does not explain the practical reasons which have led the council to pass the same; I am unable to examine those reasons. In omitting such explanation the council have failed to understand my position.



Being the only custodian of the public moneys, I am not allowed to carry out any instructions or to follow any recommendation without having convinced myself of its expediency.

I shall be obliged if you kindly will communicate these remarks to the municipal council of Apia.

I have, etc.,

FRHR. SENFT VON PILSACH.

[Inclosure 2 in No. 1.—Newspaper extract.]

#### THE PRESIDENT'S POWER AS TREASURER.

##### *Decision of the chief justice.*

This is a matter in controversy between the municipal council of Apia and the president, Baron Senft von Pilsach, as receiver and custodian of the Samoan revenue.

In a meeting held on the 25th November, 1891, the municipal council passed the following resolution, viz:

"That the treasurer be instructed to withdraw the municipal moneys from the Union Bank of Australia, Sydney, as soon as the terms of deposit have expired, and to deposit the same, in United States gold, in the municipal treasury."

The consular board notified their approval in a communication dated the 4th December, 1891. This instruction having been duly notified to Baron Senft von Pilsach by letter dated the 11th December, 1891, written by the chairman *pro tempore*, Baron von Pilsach refused, by letter dated 23d December, to accept the instructions in question. In a meeting, held on the 30th December, the council resolved to refer the matter to this court for settlement.

From the written statement of the parties I learn, concerning the matter in dispute, that the president asserts that the municipal council, in passing the first resolution, exceeded the powers conferred upon it by the Berlin general act, whereas the council maintains that it had the right to give the instructions in question, and that the resolution in question is regular and valid and strictly within the powers of the council, under the Berlin general act, and that, in disobeying the instructions of the councils in this matter, the president has exceeded his powers and contravened both the wording and the spirit of the act. The point at issue is thus this: Was the president of the municipal council of Apia, as treasurer of the Samoan revenue, justified in refusing to accept the instructions of the municipal council?

In dealing with the question I have not failed to observe that the said resolution of the 25th of November, 1891, has been passed in the regular way, and is formally valid.

This, however, is not the only matter to be considered in deciding the question now before me. There is no doubt that the President is not only entitled, but bound, to omit the carrying out of any resolution, though formally valid, if the tenor of such resolution be in conflict with the provisions or the spirit of the Berlin general act. It therefore also has to be considered whether or not such is the case with the resolution in question. In this respect section 5, Article v, of the Berlin general act provides that the President shall be the receiver and custodian of the revenue accruing under the provisions of the act.

In this capacity he may under the same section receive and act under the joint instructions of the three treaty powers, but besides the instructions which may be given him in such way his instructions are contained in the general act itself, and Articles v and vi contain provisions concerning his duties in his aforesaid capacity. We shall be guided by those provisions and by the spirit of the general act, and there is nothing in the spirit nor in the provisions that imposes upon him the duty of obeying any instructions of the municipal council in the administration thus intrusted to him. That, as the municipal council points out, the authority to give such instructions is exercised by other local bodies as against their treasurers has no bearing upon the matter in question, since the position of such treasurers is not to be compared to the position of the president as custodian of the revenue of this Kingdom. Moreover, the analogy derived from the powers of local bodies in foreign countries of the highest civilization and culture is not applicable to the local circumstances of this country, the requirements of which always must be guided in the interpretation of laws as far as such interpretation can be constructive. I, therefore, decide that the said resolution of the 25th November, 1891, is void as in conflict with the Berlin general act, and that the president, Baron Senft von Pilsach, was justified in refusing to accept the instructions of the municipal council.

The municipal council shall pay the costs in this matter.

C. CEDERKRANTZ.

[Inclosure 3 in No. 1.]

*Messrs. Trood and Aspinall to the municipal council, Apia.*

APIA, SAMOA; June 20, 1892.

GENTLEMEN: In conformity with your instructions contained in letter of the 9th of May, we have audited the accounts of the municipal council up to 31st March last. We have examined the vouchers, compared them with the books, and find the figures correct, showing that on the 31st March, there should have been a cash balance on hand of \$2,880.22 as per balance sheet submitted to us.

As intimated to you in ours of the 30th March, we are unable to certify to the correctness of the cash, as we were not allowed to check it. With regard to the statement (signed by the president) of moneys transferred from the municipality to the Government, and referred to in yours of the 9th May, we have simply taken it as any other voucher, as we did not deem it our province to enter into the items.

We notice a marked improvement in the bookkeeping from the commencement of the year; previous to that they were confusing to any stranger taking them in hand.

We would suggest that auditors be appointed for a term and that they have access to the books at any time, as is the usual custom with public bodies. This would greatly simplify the matter for the auditors, as they could then keep in touch with the work throughout and the council would receive their audits whenever required.

We are, etc.,

THOMAS TROOD.  
R. P. ASPINALL.

*Mr. Herbert to Mr. Foster.*

BRITISH LEGATION,  
Washington, October 6, 1892.

SIR: I have the honor to inform you that I have received a telegram from the Earl of Rosebery stating that the German Government, in view of the disturbed state of affairs in Samoa, proposes to send one or two men-of-war there to protect life and property. His lordship sees no objection to this proposal and as, in his opinion, it is desirable to maintain the strict concert of the treaty powers, he is disposed to recommend acquiescence in it.

I should be very glad to learn the views of your Government in regard to this matter.

I have, etc.,

MICHAEL H. HERBERT.

*Mr. Adee to Mr. Herbert.*

DEPARTMENT OF STATE,  
Washington, October 7, 1892.

MY DEAR MR. HERBERT: I thank you for your kind note of the 5th instant, transmitting for my confidential information a copy of a dispatch from Her Majesty's consul in Samoa respecting the financial administration of the Samoan Government. It strengthens my opinion with respect to the advisability of accepting the resignation of Baron von Pilsach, and I have written the German chargé that I am disposed to believe that it is best for the three powers to accede to the baron's request to be relieved.

I am, etc.,

ALVEY A. ADEE.



*Mr. Adee to Mr. Herbert.*

DEPARTMENT OF STATE,  
Washington, October 7, 1892.

SIR: With reference to the Department's note of the 27th ultimo, relative to the resignation of the president of the municipal council of Apia, I have the honor to inform you that all of the information which I have received tends to strengthen the opinion therein expressed, and I have to-day written Baron Ketteler that I am disposed to believe that it is best for the three signatory powers to accede to Baron von Pilsach's request to be allowed to resign his office, in which for some time he has manifestly continued with great reluctance. In due time I shall be glad to be advised with respect to the views of Her Majesty's Government regarding this matter.

I have, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

*Mr. Adee to Mr. Herbert.*

DEPARTMENT OF STATE,  
Washington, October 7, 1892.

SIR: I have the honor to acknowledge the receipt of your note of the 5th instant, with which was inclosed a copy of a dispatch from Her Majesty's consul at Samoa relative to the audit of the accounts of the Samoan Government and the Apia municipality.

I have, etc.,

ALVEY A. ADEE.  
*Acting Secretary.*

*Mr. Herbert to Mr. Foster.*

BRITISH LEGATION,  
Washington, October 8, 1892.

SIR: I have the honor to inform you that I telegraphed the substance of the conversation which I had the honor to hold with you on the 6th instant in regard to the resignation of the president of the municipal council of Apia, to the Earl of Rosebery, and I have now received a communication from his lordship in reply, in which he states that the Marquis of Salisbury agreed with the German Government that Baron von Pilsach's resignation should not be accepted. His lordship adds, however, that if it should be again tendered and that the process should appear to be periodical, he would be disposed to reconsider the question in the light of later information.

I have, etc.,

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MICHAEL H. HERBERT.

*Mr. Foster to Mr. Herbert.*

DEPARTMENT OF STATE,  
Washington, October 12, 1892.

SIR: I have the honor to acknowledge the receipt of your note of the 6th instant, in which you acquaint me with the indisposition of the Earl of Rosebery to reconsider at present the action of the Marquis of Salisbury in agreeing with the German Government that the resignation of Baron Senfft von Pilsach as president of the municipal council of Apia should not be accepted.

I have, etc.,

JOHN W. FOSTER.

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*Mr. Foster to Mr. Herbert.*

DEPARTMENT OF STATE,  
Washington, October 12, 1892.

SIR: I have the honor to acknowledge the receipt of your note of the 6th instant in regard to the proposal of the German Government, in view of the disturbed state of affairs in Samoa, to send one or two men-of-war there to protect life and property.

While the general act of Berlin is silent as to the naval force to be maintained by the three powers in the Samoan waters, yet in view of the proposal of this Government, at the first Samoan conference in Washington, June 25, 1887, looking to the keeping of a man-of-war of each power, alternately, in those waters for four months in each year to assist in maintaining the established government there and to preserve peace and order, this Government is not disposed to object to such action on the part of the German Government as may tend to observe the spirit of the engagements equally assumed by the three powers. Nothing, however, in the present situation in Samoa, so far as it is here apparent, suggests the necessity of more than one vessel of either power being dispatched to those waters.

No communication on the subject has been received by me from the imperial German chargé d'affaires, but should he bring the question to my attention, I shall be happy to answer him in the same sense.

I have, etc.,

JOHN W. FOSTER.

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*Mr. Herbert to Mr. Foster.*

BRITISH LEGATION,  
Washington, October 25, 1892.

SIR: With reference to your note of the 12th instant and to our subsequent conversation respecting the proposal of the German Government in regard to the dispatch of ships of war to Samoan waters, I have the honor to inform you that I have received a telegram from the Earl of Rosebery in which his lordship states that Her Majesty's Government are sending one ship of war to Samoa for the protection of life and property there, and that her commander has been instructed to act in concert with the American and German naval officers who may be employed on a similar duty.



His lordship is very anxious that the concert of the three treaty powers should be maintained in Samoa and he is therefore not disposed to raise the point as to whether one or two ships of war should be sent there so long as joint action is taken and joint instructions are agreed upon by the three governments.

I have, etc.,

MICHAEL H. HERBERT.

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*Mr. Herbert to Mr. Foster.*

BRITISH LEGATION,  
Washington, November 2, 1892.

SIR: With reference to my note of the 8th instant, I have the honor to inform you that I forwarded copy of your note of the 27th September in regard to the resignation of the president of the municipal council of Apia to the Earl of Rosebery, and his lordship has now instructed me to state in reply that the Marquis of Salisbury expressed in the month of August last his concurrence in the proposal of the German Government that Baron Senfft's resignation should not be accepted. For the present, therefore, the question must, in his lordship's opinion, be settled in that sense. I am desired, however, to add that in the event of Baron Senfft again tendering his resignation, later information which has been received in regard to the state of affairs in Samoa might warrant a reconsideration of the question.

I have, etc.,

MICHAEL H. HERBERT.

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*Mr. Herbert to Mr. Foster.*

BRITISH LEGATION,  
Washington, November 2, 1892.

SIR: With reference to your note of the 24th September last I have the honor in accordance with instructions which I have received from my Government to transmit for your information copy of a dispatch which has been addressed by the Earl of Rosebery to Her Majesty's consul in Samoa, containing instructions for his guidance with respect to the audit of the accounts of the municipality and the Samoan Government.

I have, etc.,

MICHAEL H. HERBERT.

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*Sir Philip Currie to Consul Cusack-Smith.*

FOREIGN OFFICE,  
October 17, 1892.

SIR: I am directed by the Earl of Rosebery to transmit herewith copy of a letter which the president of the municipal council at Apia has addressed to the Government of the three treaty powers respecting the audit of the accounts of the municipality and of the Samoan Government, respectively.

The accompanying copies of dispatches as marked in the margin will put you in possession of the views held by the governments of Germany and of the United States in regard to this question.

Baron S. von Pilsach suggests that the difference of opinion which has arisen between himself and the members of the municipal board on this subject could be

met by keeping the revenues of the municipality distinct from those of the Government.

It appears to Her Majesty's Government that this would be the best course to adopt in the matter and in this view the U. S. Government are also disposed to agree.

Should it, however, be found impossible to come to an arrangement in the sense proposed, Lord Rosebery thinks that, as stated by the German minister for foreign affairs in his note of the 15th ultimo, the question should be settled by the chief justice in accordance with the provisions of the final act.

I am to instruct you to join your German and American colleagues in a collective communication to Baron Senfft von Pilsach to the above effect.

I am, etc.,

P. CURRIE.

*Mr. Trench to Earl of Rosebery.*

BERLIN, September 16, 1892.

MY LORD: With reference to your lordship's dispatch No. 196 of the 5th instant, respecting the question raised by Baron S. von Pilsach in regard to the audit of the municipal and Government accounts in Samoa, I have now the honor to transmit to your lordship herewith a translation of a note which I have to-day received from the Imperial ministry of foreign affairs intimating that the German Government attach no special importance to the present case, which they consider may be properly settled by the chief justice. They are, however, of opinion that the president of the municipal council should be cautioned against the undue multiplication of subordinate posts.

I have, etc.,

P. LE POER TRENCH.

[Inclosure in No. 1.]

[Translation.]

FOREIGN OFFICE, Berlin, September 15, 1892.

The undersigned has the honor to inform Mr. Le Poer Trench, in reply to his note of the 12th instant, that the president of the municipal council at Apia has also asked the Imperial Government for instructions with reference to the audits of his treasury administration.

As no special importance is attached by the Imperial Government to the question raised by Baron S. v. Pilsach, the Imperial consul has been instructed to inform Baron S. v. Pilsach that the Imperial Government intends to remain neutral in the matter, which, in case of necessity, may be settled by the decision of the chief justice in accordance with the regulations of the Samoa act.

The undersigned, therefore, considers it needless to change the instructions to the Imperial consul in the sense proposed by Her Majesty's Government, but Baron S. v. Pilsach should, however, be warned against further increasing the already considerable expense of administering the country and the municipality by creating, out of affection for principles or theories, fresh posts, such as that of assistant treasurer to the municipality, as suggested in his report.

The undersigned will instruct the Imperial consul to make a communication in this sense to his colleagues and, under certain conditions, to the president of the municipal council.

ROTENHAN.

*Mr. Herbert to Mr. Foster.*

WASHINGTON, November 2, 1892.

SIR: With reference to my note of the 3d of October last, I have the honor to inclose the copy of the note from the Marquis of Salisbury to Count Hatzfeldt, of the 12th of August, which should have accompanied my note of the 26th August last, in regard to the difference of opinion



which has arisen as to the apportionment of the import and export duties in Samoa.

I have the honor to renew at the same time the expression of my regret that the wrong inclosure should have been sent you with my note of the 26th August.

I have, etc.,

MICHAEL H. HERBERT.

*Mr. Foster to Mr. Herbert.*

DEPARTMENT OF STATE,  
Washington, November 3, 1892.

SIR: With reference to your note of the 25th ultimo respecting the proposal of the German Government in regard to the dispatch of ships of war to Samoan waters, I have the honor to send you herewith a copy of a note upon this subject which I have this day sent to Baron Ketteler.

I have, etc.,

JOHN W. FOSTER.

INCLOSURE.

To Baron Ketteler, November 3, 1893.

*Mr. Herbert to Mr. Foster.*

[Personal.]

WASHINGTON, November 4, 1892.

DEAR MR. FOSTER: If you have no objection will you kindly send me copies of Baron Ketteler's notes of the 15th and 24th ultimo, relative to Samoa, quoted in your note to him of yesterday.

I am called up to New York this evening, but shall be back again by Sunday evening should you desire to see me.

Very truly, yours,

M. H. HERBERT.

*Mr. Foster to Mr. Herbert.*

DEPARTMENT OF STATE,  
Washington, November 5, 1892.

SIR: I have the honor to acknowledge the receipt of your note of the 2d instant, in relation to the resignation of Baron Senft, as president of the municipal council of Apia.

In view of the information which I communicated to you in our interview last Thursday, this Government anticipates that Earl Rosebery will take this subject again into consideration.

I have, etc.,

JOHN W. FOSTER.

*Mr. Foster to Mr. Herbert.*

[Personal.]

DEPARTMENT OF STATE,  
Washington, November 5, 1892.

DEAR MR. HERBERT: In compliance with the request contained in your personal note of the 4th instant, I inclose herewith copies of Baron Ketteler's notes of the 15th and 24th ultimo in relation to the Samoan question.

Very truly, yours,

JOHN W. FOSTER.

INCLOSURES.\*

From Baron Ketteler to Mr. Foster, October 15, 1892.

From Baron Ketteler to Mr. Foster, October 24, 1892.

*Memorandum of a conference had with the British Minister on Thursday, November 17, 1892, in reference to affairs in Samoa.*

The Secretary informed the British Minister, Sir Julian Pauncefote, that the proposition submitted by the German chargé for the vacation of the offices of chief justice and municipal president were made without previous consultation with him, the Secretary; neither had he considered the names of any persons to fill the vacancies. Messrs. Ide and Hennings, the persons named by the German chargé as suitable for the places, had not been considered by the Secretary until suggested by the German chargé. The Secretary further said that he had made inquiry respecting the standing and qualification of Judge Ide and the information received was of a very satisfactory character. He had no knowledge of Mr. Hennings except he was informed that he had long been resident in the Pacific Islands, especially at Fiji, where, it was stated, he had held office under the British Government, although it was understood he was a German subject. If these two nominations were approved by the British Government, the Government of the United States stood ready to accept them.

The Secretary suggested to Sir Julian that in view of the provisions of the treaty it would be well to first communicate to the respective consuls the fact that the treaty powers had decided that it was best for the harmonious administration of affairs in the Samoan Islands that new appointments be made for the offices of chief justice and president of the municipal council, and that having accepted the resignation of the latter they would be prepared to accept the resignation of the chief justice. This the Secretary suggested as a preliminary step to the appointment of their successors.

Sir Julian stated that he would communicate the substance of this interview to Lord Rosebery by telegraph and confirm more fully by mail.

NOVEMBER 15, 1892.

MR. SECRETARY: Sir Julian Pauncefote called and said that he had just received a telegram from Lord Rosebery, of which the accompanying paper is a paraphrase. He did not know who Mr. William Hennings is. Neither do I.

W. F. W. (William F. Wharton.)

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\* For inclosures see Germany at proper dates.



It has been proposed by the German Government that the municipal president and the chief justice of Samoa should be recalled and Messrs. Ide and William Hennings appointed to succeed them. Her Majesty's Government have informed the German Government that they reserve their opinion as to the new appointments, but agree to the recall.

*Mr. Foster to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, November 21, 1892.

SIR: Adverting to our conversation of the 17th instant, I have the honor to send you herewith, for your information, copies of a note from the imperial German chargé, November 15, and of my reply thereto, November 18, with respect to the offices of president of the municipal council of Apia and chief justice of Samoa.

I have, etc.,

JOHN W. FOSTER.

*Mr. Foster to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, November 22, 1892.

SIR: With reference to Mr. Herbert's notes of August 26 and November 2 last, transmitting copies of a verbal communication from the German embassy in London to Her Majesty's Government, and of Lord Salisbury's reply, relative to the difference of opinion which has arisen as to the apportionment of the import and export duties in Samoa, I have the honor to send you herewith a copy of a similar communication which I have received from the German chargé in this city, and of my reply thereto. You will observe that the views of this Government substantially accord with those of Her Majesty's Government as expressed in Lord Salisbury's note to Count Hatzfeldt, dated August 12 last.

I have, etc.,

JOHN W. FOSTER.

INCLOSURES.\*

1. From the German chargé July 14, 1892.
2. To Mr. von Holleben, November 22, 1892.

*Mr. Foster to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, November 22, 1892.

SIR: In reply to Mr. Herbert's note of September 1, 1892, relative to an ordinance of the Samoan Government, dated April 25 last, "regulating the collection and arrangement of the revenue customs," I have the honor to inform you that this Government has also received a copy of this ordinance from the president of the municipal council with the

\* For inclosures, see Germany.

request that it would "order the necessary steps to be taken for the purpose of rendering applicable the provisions of said ordinance to the United States citizens living in Samoa." I send you herewith a copy of a note dated August 13, from the German chargé in this city, regarding this subject, and of my reply thereto of this date. You will observe that the opinion is expressed that in view of the fact that the three treaty powers are agreed in treating as a nullity the opinion of the chief justice of Samoa, of March 28 last, with respect to the revenues, and will undoubtedly soon make some concurrent expression of that view to the proper Samoan officials, no further action with respect to this ordinance, for the present, at least, seems to be necessary.

I have, etc.,

JOHN W. FOSTER.

INCLOSURES.\*

1. From German chargé, August 13, 1892.
2. To Mr. von Holleben, November 22, 1892.

*Sir Julian Pauncefote to Mr. Foster.*

WASHINGTON, November 25, 1892.

SIR: With reference to the dispatch of vessels of war by the three treaty powers for the protection of life and property in Samoa, I am directed by the Earl of Rosebery to inform you that the commander of the British man-of-war *Ringarooma*, who has received orders to proceed to the Navigators Islands, has been instructed not to take action without the unanimous consent of the consuls of the three powers.

I have, etc.,

JULIAN PAUNCEFOTE.

*Mr. Foster to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, November 30, 1892.

SIR: I have the honor to acknowledge the receipt of your note of the 25th instant, in relation to the protection of life and property in Samoa by the vessels of war of the three treaty powers.

I have, etc.,

JOHN W. FOSTER.

*Mr. Foster to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, December 6, 1892.

SIR: I have the honor to state, for your information, that I am in receipt of a telegram of the 6th instant from the U. S. vice-consul-general at Apia, which read as follows:

Chief justice notified by consuls. Refuses compliance with directions of three powers respecting survey and register fees.

I have, etc.,

JOHN W. FOSTER.

\* For inclosures, see under Germany.



*Memorandum.*

[Copy handed to the British minister by the Secretary of State, December 9, 1892; also to German minister.]

## PRO MEMORIA.

## Section 1 of Article VIII of the Berlin general act provides that—

Upon the request of either power after three years from the signature hereof, the powers shall consider by common accord what ameliorations, if any, may be introduced into the provisions of this general act. In the meantime any special amendment may be adopted by the consent of the three powers with the adherence of Samoa.

It is believed that some amendment of the act, if only for explanatory purposes, is necessary. There are inherent ambiguities in its language, and the usual practical difficulties have arisen which naturally arise in the working of any new organization. These difficulties exist equally with respect to each of the instrumentalities created by the treaty, such as the court, the municipality, and the land commissions. Mention need only be made, for example, of the pending unsettled questions with respect to the division of the customs revenue, and the supervisory power of the supreme court over the findings of the land commission. Some agreement, too, must soon be reached regarding the continuance of the land commission, as it is now evident that its work can not be completed within the time originally limited by the treaty.

The residents of Apia in a public meeting last February asked the three governments to consider a series of amendments which they proposed. The president of the municipal council has recommended changes. The Government of the United States also has at different times been advised by its representatives in Samoa of amendments deemed necessary or desirable. Any one of the powers might now, in accordance with the section quoted, require the subject of treaty revision to be taken into consideration, but it is not believed that the purpose to be accomplished requires a formal conference such as originated the treaty, and much less so since there seems to be no necessity for any discussion of its general scope or plan. The purpose desired is not any alteration in its essential features but merely minor changes in its details. That purpose might be accomplished very simply by an informal conference between the Secretary of State and the representatives in this city of the governments of Germany and Great Britain, based upon a prior report of the representatives of the three governments in Samoa.

At the present time each of the three treaty powers has a consular representative at Apia. They are well informed regarding the necessity and propriety of any proposed changes, and they, aided by the counsel of the land commissioners of their respective governments, could profitably confer with reference to this subject without delay and without expense. Their consideration of the matter should be limited to explanatory amendments and details in the interest of the best practical results under the treaty. They could, of course, make separate reports to their respective governments, but in so far as they were able to agree they should make a joint report of their recommendations. These reports could be treated as being simply for the information of the powers, which could reserve to themselves the fullest liberty of final action. It is believed, however, that they would furnish an intelligent basis for the practical consideration of the questions involved.

It is, therefore, proposed by the United States that instructions be sent by the three powers to their respective consular representatives in Samoa to hold a joint conference at the earliest convenient date after receipt of the instructions and make a joint report as to recommendations which they may be able to agree upon respecting the more effective working of the Berlin general act. When this joint report is received it is further proposed that a conference be held between the Secretary of State and the diplomatic representatives of Germany and Great Britain with a view to the adoption of such modifications or explanatory declarations of the Berlin general act as, in the light of the recommendations of the consuls or other officials, may be deemed advisable.

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*Sir Julian Pauncefote to Mr. Foster.*

WASHINGTON, January 11, 1893.

SIR: I have the honor to inform you that Her Majesty's consul at Apia has reported to Her Majesty's Government that Baron Senfft von Pilsach declines to furnish the consuls of the treaty powers with copies of his quarterly financial reports unless he receives a joint instruction from the powers to do so.

The Earl of Rosebery has accordingly instructed me to propose to your Government that joint action should be taken with this object.

I have, etc.,

JULIAN PAUNCEFOTE.

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*Mr. Foster to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, January 14, 1893.

SIR: I have the honor to acknowledge the receipt of your note of the 11th instant, in which you state that Her Majesty's consul at Apia has reported that Baron Senfft von Pilsach declines to furnish the consuls of the treaty powers with copies of his quarterly financial reports unless he receives a joint instruction from the powers to do so. You add that the Earl of Rosebery has instructed you to propose to this Government that joint action should be taken with that object.

This Government has not yet received a report from its consul with reference to this matter, but it heartily concurs in the proposal of Her Majesty's Government, and I will at once instruct the American consul at Apia accordingly.

I have, etc.,

JOHN W. FOSTER.

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*Mr. Foster to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, January 19, 1893.

DEAR SIR JULIAN: I have seen the German minister and he will cable his Government to-day that you have informed me that the British minister in Stockholm understands that M. de Cedererantz desires to



resign. He will further advise his Government that I am prepared to instruct our minister at Stockholm to cooperate with the British and German ministers in a representation to His Majesty the King of Sweden that the resignation will be accepted and the expenses of the return journey of M. de Cedercrantz paid by the three powers, this course being regarded as most courteous to the King and most expeditious, and possibly would result in a telegram from the Swedish Government to M. de Cedercrantz. You may feel at liberty to telegraph in the same sense to your Government.

With sentiments of the highest esteem.

I am, etc.,

JOHN W. FOSTER.

*Mr. Foster to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, February 6, 1893.

SIR: With respect to the suggested administrative changes in Samoa, I have the honor to acknowledge the receipt of your note of the 26th ultimo, in which you state that "Her Majesty's Government know of no present objection to the selection of Mr. Ide as chief justice." As the proposal came from the Imperial German Government and has already been acceded to by this Government, it would appear that the three powers are in accord as regards the appointment of Mr. Ide. With reference, however, to the proposed appointment of Mr. Henning's as president of the municipal council, I note that Her Majesty's Government "must await a dispatch from Her Majesty's high commissioner for the Western Pacific before coming to a final decision."

I have, etc.,

JOHN W. FOSTER.

*Mr. Wharton to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, March 3, 1893.

SIR: I have the honor to acknowledge the receipt of your note of the 28th ultimo, stating the objections entertained by Her Majesty's Government to the appointment of Mr. William Hennings to be president of the municipal council of Apia, as proposed by the German Government.

A few days previously I received from the German legation a memorandum, dated February 24, informing me that in consequence of the final decision of Her Majesty's Government not to accede to the proposed appointment of Mr. Hennings, the Imperial Government withdraws its original proposal for the simultaneous appointment of Mr. Ide as chief justice of Samoa, and intends shortly to make new suggestions for the appointment of candidates to both offices.

While awaiting further proposals in this regard, I beg to suggest that inasmuch as Mr. Ide's appointment has already received the cordial approval of the three governments, and as this Government has no candidate in view at this time to succeed Baron Senft, the selection of a substitute may be left in the first instance to the British and German governments, in the supposition that an agreement between them in regard to the president of the municipal council would in all probability

be coupled with the renewed presentation of Mr. Ide's name for the chief-justiceship. But in any event this Government holds itself free to act upon both nominations or to suggest new candidates, should occasion require.

I have, etc.,

WILLIAM F. WHARTON,  
*Acting Secretary.*

*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
*Washington, May 8, 1893.*

SIR: This Government is advised, by a dispatch received from the U. S. minister at Stockholm, that His Majesty the King of Sweden and Norway, by whom and at the request of the three signatories of the Samoan general act Mr. Cedererantz was named chief justice of Samoa, has now the intention of granting the request of Mr. Cedererantz to be permitted to resign his office and return to Europe on the ground of ill health. Before doing so, however, His Majesty desires to learn the views of the signatory powers touching the precise date when Mr. Cedererantz may be permitted to quit his post, having regard to the interests of the service and the means of communication with the Samoan Islands.

The readiness of the Government of the United States to accept Mr. Cedererantz's resignation of the Samoan chief-justiceship has been heretofore made known to the other signatories; and I have the honor to add that this Government is disposed to give effect to his present tender of resignation at as early a day as may be convenient.

In view, however, of the fact that the three signatories are considering the question of the immediate withdrawal of Baron Senfft von Pilsach, the president of the municipal council of Samoa, with every prospect of agreement upon the German proposal to intrust for the time being the administrative functions of the presidency of the municipal council to the consular representatives of the three powers acting jointly, the expediency or even feasibility of likewise temporarily intrusting to the three consuls the judicial functions and powers of the chief-justiceship may be seriously doubted. To do so would, it is thought, be an impracticable expansion of the intent of the provision of Article III of the general Samoan act, prescribing that—

The powers of the chief justice, in case of a vacancy of that office from any cause, shall be exercised by the president of the municipal council until a successor shall be duly appointed and qualified.

This Government would be indisposed to devolve, by substitution, upon the three consuls acting jointly, the complex and delicate judicial powers pertaining to the chief justice.

It would seem that the appointment and qualification of Judge Cedererantz's successor should, if possible, coincide with his retirement, so that no interruption of the due course of justice in Samoa shall occur. Any proposal to this end will have my earnest and speedy attention.

I have the honor to request an early communication of the views of your Government in this regard, so that an answer may be returned to His Majesty's inquiry.

I have, etc.,

W. Q. GRESHAM.



*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, May 13, 1893.

SIR: I have the honor to communicate for the information of your Government copies of a memorandum handed to me on the 10th instant by the German minister, and of the memorandum in reply thereto handed to Dr. von Holleben on the 11th, in regard to the arrangements recommended by the three consular representatives at Apia in January last and accepted by the governments of the three treaty powers, in regard to the apportionment of the customs revenues of Samoa with a view to meet certain requirements of the municipal service and to provide for the deficiency in the latter regard which has arisen from the difficulty of collecting the native taxes in these islands. Conformably with the announcement in my memorandum, I have dispatched instructions by telegraph to Auckland and thence by ship to Apia, notifying the chief justice that his opinion touching the allotment of the customs revenues is not accepted, and requesting him to concert with the consular representatives of the three treaty powers to carry into effect the understanding heretofore reached by them. The acting consul-general of the United States was at the same time instructed in a similar sense.

I have, etc.,

W. Q. GRESHAM.

*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, May 17, 1893.

SIR: I have the honor to apprise you of the assent of the Government of the United States to the proposition, as modified by the concurrence of your Government and that of the German Empire, to extend the term of the Samoan land commission to March 31, 1894.

I have, etc.,

W. Q. GRESHAM.

*Mr. Adee to Sir Julian Pauncefote.*

[Personal.]

MAY 17, 1893.

DEAR SIR JULIAN: After his conversation with you yesterday in regard to Samoan affairs, Mr. Gresham finds himself uncertain whether the situation with respect to the appointment of a new chief justice and president of the municipal council is clearly presented.

As he now understands it, the German Government proposed Mr. Ide and Mr. Hennings as the successors of Mr. Cedererantz and Baron Senft in those offices, intimating that the nominations were interdependent and to be considered jointly.

This Government accepted them both as tendered. Her Majesty's Government, while accepting Mr. Ide for chief justice, objected to Mr. Hennings for president of the municipal council, whereupon Germany withdrew both nominations, reserving the submission of others in their stead. No new nominations have yet been made, and this Government has proposed no names and made no suggestion, save that as Mr. Ide

has already been acquiesced in by the three powers it might be convenient to couple him with any new candidate for the municipal presidency.

This latter suggestion was put forward in Mr. Wharton's note to you of March 3, to which no reply has yet been made so far as appears of record. I venture to inclose a copy for your use, if need be.

I am, etc.,

ALVEY A. ADEE.

INCLOSURE.

Mr. Wharton to Sir Julian Pauncefote, March 3, 1893.

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*Mr. Gresham to Sir Julian Pauncefote.*

[Telegram.]

DEPARTMENT OF STATE.

Washington, June 19, 1893.

Important communication sent you to-night concerning Samoa. After you have read it I suggest it necessary that I confer with you and German minister here as soon as possible.

W. Q. GRESHAM.

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*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,

Washington, June 19, 1893.

EXCELLENCY: As you will recall, the question of joint assistance to be rendered by the three powers to the Government of King Malietoa in enforcing its authority throughout the Samoan Islands under the general act of Berlin has on several occasions been considered.

The Government of the United States, while heretofore inclined to confine its action to participation in the maintenance of the system of government devised by the general act to the execution of the process of the supreme court and to keeping up such naval representation in Samoan waters as should suffice for the protection of American life and property in those islands, is now prepared to go further, in view of the reported rebellious attitude of Mataafa and his followers, and will join in an active demonstration for the purpose of surrounding and disarming them.

I inclose for your information copies of a memorandum received by me on the 13th instant from the imperial German legation and of my reply of this date, announcing the decision of the Government of the United States, in view of the demonstrated necessity for such action, to dispatch forthwith naval vessels to Samoan waters for the purpose of cooperating with the naval forces of the two other treaty powers in such a forcible demonstration against the rebellious chief and his adherents as will show the futility of resistance, and thus secure without bloodshed the benefits of peace and stable government which the three powers have mutually pledged themselves to afford to the inhabitants of the Samoan Islands.

I have, etc.,

W. Q. GRESHAM.



*Sir Julian Pauncefote to Mr. Gresham.*

NEWPORT, R. I., *June 22, 1893.*

SIR: I have the honor to acknowledge the receipt of your note of the 19th instant, relative to the apprehended hostilities in Samoa between King Malietoa and the rebel chief Mataafa and the intended dispatch of United States vessels of war to Samoan waters for the purposes explained in your note, the substance of which I immediately communicated by telegraph to the Earl of Rosebery.

I have, etc.,

JULIAN PAUNCEFOTE.

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*Mr. Gresham to Sir Julian Pauncefote.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, June 23, 1893.*

Germany objects to conference and I waive my request for it.

W. Q. GRESHAM.

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*Mr. Gresham to Sir Julian Pauncefote.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, June 23, 1893.*

Request for conference withdrawn. Have written.

W. Q. GRESHAM.

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*Sir Julian Pauncefote to Mr. Gresham.*

NEWPORT, R. I., *June 24, 1893.*

SIR: With reference to my note of the 22d instant, in which I had the honor to inform you that I had telegraphed to the Earl of Rosebery the substance of your note of the 19th instant, respecting the hostilities in Samoa, I now have the honor to state that I have received a reply from his lordship to the effect that Her Majesty's Government will readily cooperate with the other two treaty powers in the manner and for the purposes mentioned in your note above referred to. They would be glad if one ship of war of each power should be found sufficient to effect the object in view.

I have, etc.,

JULIAN PAUNCEFOTE.

*Sir Julian Pauncefote to Mr. Gresham.*

NEWPORT, R. I., *June 27, 1893.*

DEAR MR. GRESHAM: In your note of the 23d about Samoa you were good enough, in reply to my inquiry as to the number of vessels that each power should have available there for the purpose of the proposed demonstration against Mataafa, to inform me that two German ships are now on the spot, and that it would be several weeks before the American ships would arrive, and you added that you thought a sufficient force could be landed from three good-sized ships (one of each power) to effect the object in view, namely, disarmament without bloodshed.

I telegraphed the above to Lord Rosebery, who replies that he concurs in your view that three ships are enough, but that Her Majesty's Government are prepared to agree to whatever number your Government recommend.

May I ask you to be so good as to inform me what answer I may return to his lordship's inquiry.

I remain, etc.,

JULIAN PAUNCEFOTE.

*Sir Julian Pauncefote to Mr. Quincy.*

[Telegram.]

NEWPORT, R. I., *June 30, 1893.*

My Government cable me to ascertain and report exactly what your Government and that of Germany have agreed upon with reference to Samoa, in order that precise instructions may be sent to British naval officers and consul. I should be very grateful for immediate answer to that and previous inquiry.

PAUNCEFOTE.

*Mr. Adee to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
*Washington, June 20, 1893.*

MY DEAR SIR JULIAN: I am in receipt of your telegram of to-day, asking, in order that you may cable your Government, exactly what the United States has agreed upon with Germany in reference to Samoa, to the end that precise instructions may be sent to the British naval officers and consul in that quarter.

I shall briefly recapitulate the telegraphic correspondence between this Department and our legation at Berlin on this subject.

On the 19th instant, in view of a memorandum from the German minister of the 13th, expressing a fear of war should Malietoa carry out his announced purpose against Mataafa, the Department cabled Mr. Runyon its willingness to execute the general act of Berlin in so far as it was necessary to uphold, in connection with the two other powers, the authority they had assumed, in the humane desire to avoid bloodshed, and it was agreed to join in sending the necessary naval force for that purpose. Suggestion was made for a conference here with yourself and your German colleague.



On the 22nd instant Mr. Runyon telegraphed, in reply, the concurrence of the minister for foreign affairs in the plan suggested. He thought it advisable, however, to have two ships of each Government present in Samoan waters, and that operations of the combined forces and necessary details should be left to the joint decision of the naval commanders and consular officers in Samoa. The proposed conference was not agreed to without more specific details.

On the same date Mr. Gresham answered that, in his judgment, the naval officers, after obtaining full information, should determine for themselves how to proceed against Mataafa, and that the consuls should only be requested to give information. This Government was not disposed to permit military operations to be determined by consular officers, and thought that after Mataafa and his followers had been disarmed the power of the established government would be sufficient to preserve order.

Mr. Runyon replied, on the 23d instant, that the German Government concurred in the views expressed by the United States, but still regarded as unnecessary the proposed conference. To this Mr. Gresham simply telegraphed that the conference was waived.

This statement, in connection with Mr. Gresham's note of the 19th instant and my personal note of to-day's date, will, I doubt not, give you the essential facts.

Very truly, yours,

ALVEY A. ADEE.

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*Mr. Adeë to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, June 30, 1893.

MY DEAR SIR JULIAN: Your personal note of the 27th instant reached the Department during the temporary absence of the Secretary from the city. It relates to the number of war vessels this Government is prepared to send to Samoa.

After consultation with the Secretary of the Navy, I find that it is practicable at the present time to order but one ship to proceed to Samoan waters. She is, however, under immediate sailing orders, is heavily manned, and can efficiently aid the proposed demonstration against Mataafa.

With his note of the 19th instant Mr. Gresham inclosed to you copies of the memoranda of the German minister and of himself, which showed that this Government would at once dispatch a naval vessel, and if need were an additional one, to Samoa.

I am clearly of opinion that with the two war vessels of Germany already there, the one or more Her Majesty's Government finds it practicable to dispatch thither, and the one this Government has directed to proceed at once to those islands, an ample force can be landed to effect a stable situation there.

In this connection I confirm Mr. Quincy's telegram to you of to-day's date upon this subject, as follows:

"Your personal note to Secretary Gresham of 27th received. But one vessel now available, and under immediate sailing orders. She is heavily manned and can efficiently aid proposed demonstration."

Very truly yours, etc.,

ALVEY D. ADEE.

*Mr. Quincy to Sir Julian Pauncefote.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, June 30, 1893.

Your personal note to Secretary Gresham of 27th received. But one vessel now available, and under immediate sailing orders. She is heavily manned and can efficiently aid proposed demonstration.

JOSIAH QUINCY,  
Acting Secretary.

*Mr. Gresham to Sir Julian Pauncefote.*

[Personal.]

DEPARTMENT OF STATE,  
Washington, July 6, 1893.

MY DEAR SIR JULIAN: I received your letter of the 24th ultimo at Chicago.

To-day I informed the German secretary, Baron von Ketteler, that the *Philadelphia*, one of our best men-of-war, sailed from New York on June 24 for Samoa, to cooperate with the English and German war ships in an effort to secure the surrender of Mataafa and his adherents; that the *Philadelphia* is a new cruiser, thoroughly equipped, and capable of landing at least 200 men.

The baron stated it was the desire that the United States should send at least two war ships, the same number his Government had sent.

I asked him how many marines could be landed from the two German cruisers, and he replied 125 from each. After informing him that at present we could not well send more than one vessel, he stated that he thought the *Philadelphia* would be sufficient if she could land an effective force of at least 200 men.

I repeated to the baron the earnest desire of this Government to effect the surrender of Mataafa and his adherents without bloodshed, and he said the German Government shared that desire.

The *Philadelphia* will coal at Valparaiso and proceed directly from there to Samoa.

\* \* \* \* \*

Yours, sincerely, etc.,

W. Q. GRESHAM.

*Sir Julian Pauncefote to Mr. Gresham.*

NEWPORT, R. I., July 20, 1893.

SIR: With reference to the proposed combined action of the three treaty powers in Samoa I have the honor to inform you, by direction of the Earl of Rosebery, that telegraphic instructions were, on the 4th instant, addressed by his lordship to Her Majesty's consul at Apia to the effect that a British man-of-war would be dispatched to Samoa to cooperate in the reestablishment of good order with the vessels of the



other two treaty powers, and that the consuls of the three powers would be consulted and should furnish the fullest information, but that the decision as to what steps should be taken is left entirely to the discretion of the naval commanders.

I have, etc.,

JULIAN PAUNCEFOTE.

*Mr. Adee to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,

*Washington, July 25, 1893.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 20th instant, wherein you inform me, by direction of the Earl of Rosebery, that telegraphic instructions were, on the 4th instant, addressed by his lordship to Her Majesty's consul at Apia to the effect that a British man-of-war would be dispatched to Samoa to cooperate in the reestablishment of good order with the vessels of the two other treaty powers, and that the consuls of the three powers would be consulted and should furnish the fullest information, but that the decision as to what steps should be taken is left entirely to the discretion of the naval commanders.

The U. S. consular representative at Apia has been advised by telegraph of this action.

I have, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

*Mr. Adee to Sir Julian Pauncefote.*

[Telegram.]

DEPARTMENT OF STATE,

*Washington, August 1, 1893.*

Mr. Henry C. Ide will accept appointment as chief justice of Samoa. Will sail from San Francisco about October 20. Joint provision for transit for himself and family is suggested. Note follows.

ALVEY A. ADEE,  
*Acting Secretary.*

*Mr. Adee to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,

*Washington, August 1, 1893.*

EXCELLENCY: In confirmation of my telegram of to-day and in connection with previous correspondence upon the subject I have now the honor to state that Mr. Henry C. Ide, of Vermont, has expressed to the Department his willingness to accept the appointment of chief justice of Samoa tendered him by the governments of Great Britain, Germany, and the United States, and his appreciation of the honor thereby conferred.

Mr Ide adds that it will be impossible for him to make his arrangements to leave for his post earlier than October 20 next, when, it is understood, the steamer sails from San Francisco. He suggests that provision be made by the three powers for the expense of removing himself and family to Samoa.

This Government will bear its pro rata share of that expense, and in view of the reasonableness of Mr. Ide's request in this respect it is not doubted that Great Britain and Germany will assume their proportionate shares.

Mr. Ide also hopes that a leave of two months in each year may be agreed upon by the three powers, in view of the fact that in that tropical climate it is difficult for a white man to continue strong without reasonable annual change.

In my letter to Mr. Ide of to-day's date I have stated that there did not seem to be need of express stipulation for an annual leave, since it would no doubt be granted upon timely application.

A note in this sense has been addressed to the chargé d'affaires *ad interim*, Baron v. Kettler, for the information of his Government.

I have, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

*Mr. Gresham to Sir Julian Pauncefote.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, August 3, 1893.*

Referring to Mr. Adeë's note of August 1 regarding appointment of Mr. Ide as chief justice of Samoa, I beg to add that this Government concurs in the appointment of Mr. Schmidt as president of council, as heretofore proposed.

W. Q. GRESHAM.

*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
*Washington, August 9, 1893.*

EXCELLENCY: We have received a telegram from Mr. Blacklock, our vice-consul-general at Apia, Samoa, stating that Mataafa and his chiefs have surrendered and are prisoners on board the British and German war ships; that the war is virtually over; that the consuls await instructions from the three treaty powers as to the disposition to be made of Mataafa, and that his life was guaranteed previous to his surrender.

The U. S. S. *Philadelphia* reached Callao yesterday, where she will remain until further orders are dispatched to her.

The President would be pleased to know what action on the part of the three treaty powers is demanded by the present situation at Samoa, and especially what disposition your Government thinks should be made of Mataafa.



It now seems unnecessary that the *Philadelphia* should proceed to Samoa, and she will be ordered elsewhere unless England and Germany, for some good reason, think her presence is necessary in Samoan waters.

A similar note has been addressed to the German chargé at this capital.

I have, etc.,

W. Q. GRESHAM.

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*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, August 10, 1893.

EXCELLENCY: I have the honor to state, in confirmation of my telegram to you of the 3d instant, that the Department has signified to the chargé d'affaires *ad interim* of Germany its cordial concurrence in the appointment of Mr. Schmidt, late vice-consul of Germany at Apia, as president of the municipal council in Samoa.

I have, etc.,

W. Q. GRESHAM.

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*Sir Julian Pauncefote to Mr. Gresham.*

NEWPORT, R. I., August 15, 1893.

SIR: I have the honor to acknowledge the receipt of your note of the 9th instant, relative to the surrender of Mataafa and his chiefs, and inquiring what action on the part of the three treaty powers is demanded by the present situation at Samoa, and what disposition in the opinion of Her Majesty's Government should be made of Mataafa.

I have communicated to my Government by telegraph the substance of your note, copy of which I am sending by to-day's mail.

I have, etc.,

JULIAN PAUNCEFOTE.

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*Sir Julian Pauncefote to Mr. Gresham.*

NEWPORT, R. I., August 15, 1893.

SIR: I have the honor to acknowledge the receipt of your note of the 10th instant stating that the Department has signified to the chargé d'affaires *ad interim* of Germany its cordial concurrence in the appointment of Mr. Schmidt, late vice-consul of Germany at Apia, as president of the municipal council in Samoa.

I have informed Lord Rosebery by telegram of the fact, as well as of the acceptance by Mr. Ide of the post of chief justice of Samoa, which you were good enough to communicate to me in your note of the 6th instant.

I have, etc.,

JULIAN PAUNCEFOTE.

*Sir Julian Pauncefote to Mr. Gresham.*

[Telegram.]

NEWPORT, R. I., *August 18, 1893.*

Your note of 9th instant. German Government prepared to take charge of Mataafa and eleven other chiefs and keep them in Marshall Islands; three powers to divide cost. My Government concur and hope United States will approve. Note follows.

PAUNCEFOTE.

*Sir Julian Pauncefote to Mr. Gresham.*

NEWPORT, *August 18, 1893.*

SIR: With reference to my telegram of to-day and to your note of the 9th instant, I have the honor to inform you that I have received a telegram from my Government in which it is stated that the German Government is ready to take charge of Mataafa and eleven other chiefs and keep them in the Marshall Islands. They propose at the same time that the three powers divide the cost of their keep. Her Majesty's Government hope that the United States Government will approve of this proposal in which they concur.

I have, etc.,

JULIAN PAUNCEFOTE.

*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
*Washington, August 31, 1893.*

EXCELLENCY: In connection with the Department's notes of the 1st and 10th instants, concerning the appointment of Mr. Henry C. Ide as chief justice of Samoa, vice Mr. Cedererantz, and of Mr. Schmidt as president of the municipal council at Apia, vice Baron Senfft von Pilsach, I have now the honor to state that I have given consideration to the other matters treated of by Mr. von Holleben, late German minister, in his note of July 8, 1893.

With regard to the appointment of Mr. Ide, the minister suggested that telegraphic instructions be sent to the minister of the United States at Stockholm to the end that "he, conjointly with the German and English representatives, might take proper steps to secure the recall of Mr. Cedererantz," who, it was thought, would probably remain at his post until the arrival of his successor.

The Department has adopted this course, and has caused the Government of Sweden to be advised, as Mr. Adee in his note of the 1st instant informed you, that Mr. Ide intended to depart for his post by the steamer leaving San Francisco October 20, 1893. He will proceed directly to Samoa, reaching Apia in all probability about the middle of November.

The suggestion was made by the Imperial German Government that Mr. Cedererantz and Baron Senfft von Pilsach should receive the salaries of their respective offices up to the time of their being actually



relieved by their successors. This suggestion had my concurrence, provided it had received the sanction of Her Britannic Majesty's Government.

In this relation the German Government expressed doubt as to there being sufficient money belonging to the Samoan Government to discharge these obligations, and cited the provisions of the general act (Article III, section 2) whereby the three treaty powers are obliged to make good any deficiency in the salary of the chief justice.

No such obligation existed, it was stated, touching the salary of the president of the municipal council, but the German Government thought it would be an unreasonable hardship for that officer, because of the insufficiency of the funds of Samoa available for the purpose, not to receive the full amount of his compensation. Hence it was suggested that it was incumbent upon the three treaty powers, by whom he was appointed, to make good any deficiency; provided, however, that the amount "shall hereafter be deducted from the revenues of the Samoan Government," which the German Government believed would be ample to meet all legitimate expenses under capable management, such as was anticipated from Mr. Schmidt's administration. I assented to this course provided it had the approval of Her Majesty's Government, and I expressed the hope that the revenues of Samoa might be so wisely managed that the expenses prescribed in the general act might be met therefrom.

"The Imperial Government," stated Mr. von Holleben, "further thinks it would be proper to pay the expenses of the homeward journey of the returning officers, together with those of the removal of their residence, although this was not expressly promised to them when they were appointed."

Accordingly, a lump sum of \$1,500 was suggested to be paid to each officer on that account, and it was stated that these financial proposals of the Imperial Government were agreeable to Her Majesty's Government in case they met the approval of the United States.

The share of this Government towards the homeward transit of Mr. Cedercrantz and Baron Senfft von Pilsach, based upon the payment to each of \$1,500, will be \$1,000 for the two, and I shall instruct the consular representative of the United States at Apia that whenever he is advised by his colleagues of Great Britain and Germany that they have been authorized to pay over to Mr. Cedercrantz and Baron von Pilsach, or the latter's legal representative, a like sum on account of homeward transit, to draw upon the Secretary of State for the \$1,000 necessary to pay the share of this Government on that account.

In this connection I wish to advert to Mr. Adee's note of the 1st instant wherein it was stated that in compliance with the request of Mr. Ide provision should be made by the three powers for the payment of the actual expenses of removing himself and his family to Samoa. It was also added that this Government would bear its pro rata share.

I shall be glad to learn the decision of Her Britannic Majesty's Government as to this proposition in order that I may communicate it to Mr. Ide at his home in Vermont, so that he may be governed accordingly.

I have, etc.,

W. Q. GEESHAM.

*Sir Julian Pauncefote to Mr. Gresham.*

NEWPORT, *September 4, 1893.*

SIR: I have the honor to acknowledge the receipt of your note of the 31st ultimo, on the subject of the expenses to be borne by the three treaty powers in connection with the salaries and journeys homeward of Mr. Cederkrantz and Baron Senfft von Pilsach from Samoa, and referring, among other matters, to the proposition already put forward by your Government that provision should be made by the three powers for the payment of the traveling expenses of the new chief justice, Mr. Ide, and his family.

I have transmitted a copy of your note to the Earl of Rosebery, and I shall have the honor of addressing a further note to you on the subject on receipt of his lordship's reply.

I have, etc.,

JULIAN PAUNCEFOTE.

*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
*Washington, September 6, 1893.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 18th ultimo, in which you state that you are informed by your Government that the German Government is ready to take charge of Mataafa and eleven other chiefs on the Samoan Islands and keep them in the Marshall Islands, the expense of their maintenance to be divided between the three powers.

In view of the concurrence of Her Majesty's Government, as expressed in your note, this arrangement is assented to by the Government of the United States.

I should be pleased to be advised of the probable expense to be so entailed.

I have, etc.,

W. Q. GRESHAM.

*Sir Julian Pauncefote to Mr. Gresham.*

NEWPORT, R. I., *September 12, 1893.*

SIR: With reference to my note of the 15th ultimo, I have the honor, in accordance with instructions which I have received from Her Majesty's principal secretary of state for foreign affairs, to transmit copy of a note addressed Her Majesty's ambassador at Berlin by Baron von Rotenhan dealing with various questions connected with the annual leave of absence, official residences, and traveling allowances for Messrs. Ide and Schmidt, who have been selected by the treaty powers for the respective appointments of chief justice and president of the municipal council at Apia.

Lord Rosebery desires me to inform you that Her Majesty's Government are disposed to concur in the proposals of the German Government.

I have, etc.,

JULIAN PAUNCEFOTE.



*Baron von Rotenhan to Sir E. Malet.*

[Inclosure—Translation.]

MINISTRY OF FOREIGN AFFAIRS,  
Berlin, August 23, 1893.

The undersigned has the honor to inform Her Majesty's ambassador, in reply to his excellency's note of the 18th instant, that no communication from the American Government has as yet been received here upon the subject of the annual leave of absence for Mr. Ide, whom it is proposed to nominate chief justice of Samoa. So far as can be foreseen, it would be possible to meet the wishes of that gentleman. In pursuance of the final paragraph of section 2, Article III, of the Samoa act, his duties would be discharged in his absence by the president of the municipal council.

Herr Schmidt, imperial vice-consul, who has been selected by the governments for the latter office, has not yet expressed a corresponding wish to that preferred by Mr. Ide. On the other hand, he has asked to be put in possession, in return for payment of a moderate rent of the official residence erected two years ago for the president of the municipality. As has recently become known here, that residence, since the departure of Baron Senfft von Pilsach, has been taken possession of by Malietoa and his family. Considering that the premises in question form part of the Samoan Government property falling under the management of the consuls acting as substitutes for the president of the municipality, and not part of Malietoa's private property, it is the opinion of this Government that it is the business of the consuls to see to it that this residential accommodation shall not be diverted from its legitimate employment. In like manner, any pretensions on the part of Malietoa or of other natives to the residence hitherto placed at the disposition of the chief justice must be guarded against as Mr. Ide would be in a position to lay reasonable claim to the same.

In regard to the question raised in Sir Edward Malet's note as to fixing the expenses of removal incurred by Mr. Ide, it might be an appropriate course to regulate this point on a joint basis for the two officials about to be dispatched to Samoa. The Imperial Government would suggest that each of them should be furnished with a lump sum of \$1,500 in gold to be provided by the three governments in equal proportions, in harmony with the proposal made by Germany with respect to the expenses of the return journey of Messrs. Cedercrantz and von Senfft.

Payment of salary should commence for the new officials from the day of their arrival at Apia.

The undersigned has the honor to request the good offices of his excellency Her Majesty's ambassador to bring the foregoing proposals to the knowledge of Her Britannic Majesty's Government, and he trusts to receive as early an intimation as possible of their views in regard to them. The undersigned begs further to observe that an arrangement to the same effect will be entered into with the Government of the United States, and he avails himself, etc.,

ROTENHAN.

*Sir Julian Pauncefote to Mr. Gresham.*

BRITISH EMBASSY,  
Newport, R. I., September 18, 1893.

DEAR MR. GRESHAM: I gather from a telegram which I have received from the Earl of Rosebery, that the prolonged absence of the U. S. land commissioner from Samoa is causing inconvenience, and I should be glad if you would enable me to inform his lordship at what date that gentleman may be expected to return to his post.

I am, etc.,

JULIAN PAUNCEFOTE.

*Sir Julian Pauncefote to Mr. Gresham.*

NEWPORT, September 18, 1893.

SIR: With reference to my note of the 12th instant, I am directed by the Earl of Rosebery to inclose a check for \$500, which I am authorized to pay to your Government as the contribution of Her Majesty's Govern-

ment toward the traveling expenses of Mr. Ide, the new chief justice at Apia, in accordance with the understanding arrived at that the sum of \$1,500 allotted to that gentleman for the above purpose shall be equally divided between the three treaty powers.

Lord Rosebery is of opinion that it is advisable that these payments should be made by the three governments simultaneously, and I am directed to request that I may be furnished with a receipt from Mr. Ide for the amount contributed by Her Majesty's Government.

I have, etc.,

JULIAN PAUNCEFOTE.

*Mr. Adee to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,

Washington, September 21, 1893.

DEAR SIR JULIAN: In the absence of the Secretary I have to say, in reply to your note of the 18th instant, requesting to be informed as to what date the U. S. land commissioner for Samoa may be expected to reach his post, that Mr. Ormsbee having resigned, his successor, Mr. William Lea Chambers, of Alabama, has been nominated and will probably be able to sail from San Francisco for Samoa by steamer leaving October 20.

Very truly, yours,

ALVEY A. ADEE.

*Mr. Adee to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,

Washington, September 23, 1893.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 12th instant, accompanied by a copy of a note addressed to Her Britannic Majesty's ambassador at Berlin by Baron von Rotenhan, dated August 23, 1893, respecting the annual leave of absence, official residences, and traveling allowance for Mr. Henry C. Ide and Mr. Schmidt, who have been selected by the treaty powers for the respective appointments of chief justice of Samoa and president of the municipal council at Apia.

The German ambassador has also submitted these propositions, in which you state Her Majesty's Government concurs, to the Department in a recent note, and assent has been given thereto on the part of the United States.

I inclose for your further information a copy of my note addressed to his excellency Baron von Saurma-Jeltsch, on the 22d instant, upon the subject.

Mr. Ide expects to sail from San Francisco by the *Mariposa*, leaving that port on the 19th proximo. I shall be glad to be advised as to the pleasure of Her Majesty's Government in the matter of the payment to him of the \$500 due on account of his outward transit expenses. You will observe that I have represented to the German ambassador that the share of his Government may be turned over to this Government



to be covered into the Treasury, since there has been advanced to Mr. Ide by the Government of the United States the sum of \$1,000 on account of such expenses. If you will indicate how Her Majesty's Government desires Mr. Ide shall be paid the sum of \$500 I shall be glad to instruct him in the premises.

I have, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

*Mr. Adee to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
*Washington, October 4, 1893.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 18th ultimo, inclosing a check for \$500, as the contribution of Her Majesty's Government toward the traveling expenses of Mr. Ide, the new chief justice at Apia, under the agreement reached by the three treaty powers.

I inclose herewith Mr. Ide's receipt for the amount mentioned.

In reply to the concluding paragraph of your note, I have to inform you that this Government has advanced to Mr. Ide the sum of \$1,000 on account of his expenses in traveling to his post, and that \$500 of this amount will be repaid by the German Government, to be covered into the Treasury.

I have, etc.,

ALVEY A. ADEE.

*Sir Julian Pauncefote to Mr. Gresham.*

NEWPORT, R. I., *October 5, 1893.*

SIR: In my note of the 18th ultimo I had the honor to communicate the substance of a telegram which I had received from the Earl of Rosebery with respect to the inconvenience caused by the prolonged absence of the U. S. land commissioner from Samoa. I have now received a dispatch from his lordship which explains his solicitude on the subject. I am instructed to inform you that Mr. Cusack-Smith, Her Majesty's consul at Apia, reports that owing to no successor to Mr. Ormsbee having yet arrived since that gentleman left Samoa on March 1 last, it will now be impossible to conclude the labors of the commission by March 31 next.

Mr. Haggard, the British commissioner, also complains to his lordship that although he and his imperial German colleague have been able to make a preliminary investigation of claims to decide upon those which must fall through and to report upon those that are undisputed, they have now arrived at a point where they are obliged, owing to the absence of the U. S. commissioner, to suspend their labors. They are very anxious to bring the work of the commission, as speedily as possible, to a conclusion, but as there are a series of cases, which are con-

tested on good grounds and therefore dependent upon the opinion of the three commissioners, they are obliged to pass them by reluctantly in order to await the arrival of their U. S. colleague for the purpose of making an adjudication upon them.

I trust, therefore, that Mr. William Lea Chambers, Mr. Ormsbee's successor, will be able to take his departure for Samoa as proposed on the 20th instant.

I have, etc.,

JULIAN PAUNCEFOTE.

*Mr. Adee to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, October 10, 1893.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 5th instant, in relation to the absence of the U. S. land commissioner from Samoa, and the possible failure of the commission to conclude its labors within the specified time.

The Department has impressed upon Mr. Chambers the necessity of making every effort for himself, and, in conjunction with his British and German colleagues, to close up the work of the land commission by the date agreed upon, March 31, 1894.

I have, etc.,

ALVEY A. ADEE,  
Acting Secretary.

*Sir Julian Pauncefote to Mr. Gresham.*

WASHINGTON, October 20, 1893.

SIR: I transmitted to the Earl of Rosebery a copy of your note of the 6th ultimo respecting the custody of Mataafa and 11 other Samoan chiefs by the German Government on the Marshall Islands.

With reference to the last paragraph of your note I have the honor to inform you that I have now received instructions from Lord Rosebery to acquaint you that Her Majesty's ambassador at Berlin has ascertained from the German Government that, so far as can be calculated at present, the cost of maintaining Mataafa and his chiefs on the Marshall Islands will amount to about 60 marks per month for each person.

I have, etc.,

JULIAN PAUNCEFOTE.

*Sir Julian Pauncefote to Mr. Gresham.*

WASHINGTON, October 24, 1893.

SIR: In accordance with instructions which I have received from the Earl of Rosebery I have the honor to inclose copy of a dispatch, together with its inclosures, which his lordship has addressed to Her Majesty's chargé d'affaires at Berlin, respecting the deportation of Mataafa and other chiefs from Samoa.

I have, etc.,

JULIAN PAUNCEFOTE.



*Lord Rosebery to British chargé at Berlin.*FOREIGN OFFICE, *October 14, 1893.*

SIR: With reference to your dispatch No. 211, of the 21st ultimo, and to previous correspondence respecting the arrangements now in progress for deporting Mataafa and 11 other rebel Samoan chiefs to the Marshall Islands, I transmit to you herewith for communication to the German Government, a copy of a report by Capt. Bickford, R. N., in continuation of his letter of proceedings of 18th July, which has already been brought to their notice.

Capt. Bickford recommends in this report that the exiled chiefs should be accompanied by their wives during their internment, and the reasons which he advances for this opinion seem to me to deserve consideration.

It may, not improbably, be found necessary to detain these chiefs for an indefinite period in a country where their own dialect is not understood, and I am of opinion that to separate them from their families under these circumstances would involve a punishment of excessive severity, inexpedient on the grounds of humanity and policy alike.

It is observable that Capt. Bickford expresses doubts as to the existence of the Samoan custom, which is alleged by the native Government to justify a measure of this character. Such a custom, however, if it could be proved, can have no binding force in the present instance, as it is already inapplicable to the practice of civilized powers.

I have accordingly to request that in calling attention to the views expressed by Capt. Bickford, you will make a representation in the above sense to the German Government.

I am, etc.,

ROSEBERY.

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[Inclosure No. 2.]

*Capt. Bickford to Rear-Admiral Bowden-Smith.*

"KATOOMBA," AT APIA,  
*Samoa, August 16, 1893.*

SIR: In continuation of my letter of proceedings of the 18th July, I have the honor to report as follows:

On the morning of Wednesday, the 19th July, I weighed from Monono, with Mataafa and the other political prisoners on board. On arrival at Apia these prisoners were distributed among the ships of war present, Mataafa and six of his principal chiefs being retained on board *Katoomba*, while 10 of the others were sent to the German vessels *Bussard* and *Sperber*, and the remainder were landed.

Meetings took place between the consuls of the three powers, the German senior naval officer corvette, Capt. Flechtenhüfer, and myself, at which the advice to be given to the Samoan Government was determined on: This was that Mataafa and his principal chiefs should be deported to the island of Fakaafu, Union Group, pending the decision of the three governments, the remainder to be dealt with by fine and imprisonment.

This advice was acted on by the Samoan Government, and a formal communication was sent to me by the consuls. Communication forwarded herewith.

I was unable to take Mataafa and his chiefs myself to the Union Group, as my coal had not yet arrived from Auckland. I communicated with the German senior naval officer and he arranged to send the *Sperber*. The *Sperber* embarked Mataafa and the other chiefs, and left for Fakaafu, Union Group, on the 26th July.

On the 27th July, the *Upolu* arrived from Auckland, having our coal on board, according to previous arrangement. We left for Pango-Pango on the 28th to take this coal in, as there is too much swell at Apia for steamers to lay alongside. We arrived at Pango-Pango on the evening of the 28th, and on the morning of the 29th the *Upolu* arrived and came alongside, when we took in the coal she had for us. I remained at Pango-Pango till the 3d August, when, in the evening, I left for Apia, arriving there on the morning of the 4th August, carrying out night-firing en route.

During the stay at Pango-Pango I ascertained that fighting had been recently going on between rival chiefs, nominally of the party of the King and of Mataafa; but really these were local affairs brought on through jealousy as to titles. I had some of the chiefs on board, and communicated by letter with others, informing them that the civil war had been put a stop to by the action of the three powers, and that all fighting must cease. They all expressed themselves as most anxious to stop fighting, and probably will, at least for some time.

On arrival at Apia I found all quiet; the country is settling down, the armed forces have returned to their districts, and things generally have quieted down wonderfully, considering the recent excited state of affairs.

The English consul informs me that he does not consider the presence of men-of-war at all necessary now, although of course the place should be visited tolerably frequently; possibly if a vessel came here every two months in the nonhurricane season and remained for a week or ten days, it would be quite sufficient. A ship should, if possible, visit Samoa as soon after the hurricane season as possible, say the middle of May.

On Wednesday, the 9th of August, I, accompanied by the English consul and three of the officers of the *Katoomba*, paid an official visit to the King. I informed the King that I had postponed paying my official visit (I had visited him unofficially before) till affairs had quieted down; that now such was the case, I did so and congratulated him on the successful termination of the rebellion, which was due to the action of the three powers; that I wished that not only himself and the chiefs then present, but also all Samoa, would clearly understand that the powers were determined to uphold his (the King's) authority, and that all Samoa would acquiesce and settle down peacefully and quietly. The King replied that he and all his chiefs were most sensible of what they owed to the action of the three powers on this occasion that on the breaking out of the rebellion they were much distressed that the powers would not act on their behalf. They had determined, however, to go on and put down the rebellion, which might have lasted some time, but they were delighted beyond measure when the powers came to their assistance, and with such happy results, comparing the action of the three powers to "Moses stretching out his arms over the Red Sea for the Israelites to cross." One of the chief talking men also spoke in much the same strain. Royal or King's kava was then partaken of, an elaborate and unusual ceremonial. On leaving, I told the King I should be pleased to see him and some of his chiefs on board, and thanked him for his reception, which was, so I am informed, unusually friendly. On the 11th of August the King, accompanied by seven or eight of his chiefs, and Mr. Maben, the King's adviser, returned the visit. We went to general quarters and worked the guns, torpedoes, etc., for them, and saluted him, on leaving, with twenty-one guns.

From what I have seen and heard while in Samoa, I can not but think that the present troubles would never have come to a head had the European powers been represented by one head. There are five highly-paid officials here now with very undefined powers. The result can not naturally be successful. The natives, who are by no means fools, see and know of the divided counsels and want of accord, and so, to a certain extent, would be inclined to play off one party against the other. Mataafa's party, undoubtedly, never believed that the powers would unite against him, and the great difficulty has been that he, or rather his party, could never be brought to understand that the powers were determined to act in favor of the King. Had they realized it, the trouble would never have taken place.

A certain section of the community in Samoa state, or have stated, that they consider that the Catholic mission here have encouraged the party of Mataafa in their action against the Government. I have taken some trouble to arrive at a conclusion on this point, having communicated not only with the fathers of the mission, but with many others who are not in any way connected with them, either by religion or otherwise, and I am perfectly convinced from what I have heard that such is really nothing but a malignant invention, probably started by ignorant, narrow-minded, and bigoted individuals. On the contrary, the one object of the mission has been to endeavor to induce Mataafa to clearly understand that the powers, having placed the King where he is, must necessarily support him, and that it was his duty in every way not to put himself into opposition to the King's party, and I believe, further, that they would have succeeded in their endeavors had it not been (as I stated before) that Mataafa's party could never be got to understand that the three powers would act against him, and to this various circumstances have contributed. He (Mataafa) is very generally respected and looked upon as probably the most intelligent chief in Samoa; then, too, he, like all Samoa, has seen the want of accord between the officials.

He has also, through various visits that have been paid him, got possibly rather an enlarged view of his own importance, and further finds it difficult to forget that he had been King, and no doubt would still be had it not been for the Berlin Treaty. However, for the present, things have been settled; there is little doubt that Mataafa and the chiefs who are with him should be kept for some time, at least, out of the country. I think, however, that the chiefs should be allowed to have their wives with them. On this one point (the only one, I am glad to say) I was not in agreement with my colleagues, as I consider it not only an unnecessary piece of cruelty, but also a mistake of policy, as you will only have these women plotting in favor of their husbands; (neither do I agree that it is Samoan custom).

The *Bussard* and *Sperber* crews are to be relieved in the middle of September by



steamer from Sydney; after the relief, the *Sperber* leaves for the Cameroons (coast of Africa) via Singapore, Cape, etc. She is to be relieved on the station by the *Volga*. The *Bussard* will probably remain here awaiting orders. The American cruiser *Philadelphia* has been ordered here, but I think it most probable that now that affairs are settled, her orders will be countermanded.

On the arrival of *Ringdove* I shall direct her to proceed to Sydney, and on arrival of *Rapid* order her to return to Fiji (when the consul has had his trip in her which he anticipates having to take to Union group, etc.), as neither are required now.

The various drills, etc., have been carried out, with the exception of torpedo practice; there is no suitable place to run topedoes. Opportunities have been taken to land the small-arm men, marines, and field-guns' crews.

The health of the ship's company remains very good.

I have, etc.,

A. K. BICKFORD.

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[Inclosure 2 in No. 1.]

*The consuls of the treaty powers to Capt. Bickford.*

APIA, SAMOA, July 25, 1893.

SIR: We have the honor to inform you that at the meeting which we had this morning with the King and Government they begged us to request the naval commanders that Mataafa and the chiefs now on the men-of-war should be deported from Samoa as quickly as possible to some safe place, where they may remain until the reply of the powers can be received.

The Samoan Government is of opinion that the longer the chiefs remain on the men-of-war the more plotting and intriguing there will be. In the present excited state of Samoa it would take very little to stir up further trouble.

The Government, in reply to our question whether women would be allowed to accompany the chiefs on board the men-of-war, said that they would very strongly object. It would be contrary to Samoan custom.

We fully indorse the request of the Samoan Government, and beg you to take the necessary steps to carry it out.

We suggest the island of Fakaafu, in the Union group, as it is suitable in every respect. Samoan is talked there, and we have precedent for the selection, as the Government of Samoa has previously deported five chiefs to Fakaafu, with satisfactory results.

We beg that every precaution be taken to keep the departure and destination absolutely secret. Any demonstration of farewell might produce results which we could not control.

If it is desired, a Government official, who can act as interpreter, will accompany the prisoners, and he is authorized to make the arrangements for their maintenance, for which the Government of Samoa will provide. He would return to Samoa in the man-of-war.

We have, etc.,

T. B. CUSACK-SMITH,  
*Her Britannic Majesty's Consul.*  
 SIEGMANN,  
*Imperial German Consul.*  
 W. BLACKLOCK,  
*Vice-Consul-General, United States.*

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*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
 Washington, October 27, 1893.

EXCELLENCY: I have the honor to acknowledge with thanks the receipt of your note of the 24th instant, transmitting a copy of a dispatch, together with its accompaniments, which the Earl of Rosebery has addressed to Her Majesty's chargé d'affaires at Berlin respecting the deportation of Mataafa and other chiefs from Samoa.

I have, etc.,

W. Q. GRESHAM.

*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, November 18, 1893.

EXCELLENCY: I have the honor to acknowledge the receipt of your confidential note of the 15th instant, inclosing a copy of a letter addressed by Capt. Bickford, commanding Her Majesty's ship *Katoomba*, at Apia, to Rear-Admiral Bowden-Smith, commander-in-chief of Her Majesty's Australian squadron, reporting his proceedings at Samoa and his opinion on the subject of the disarmament of the natives.

Capt. Bickford's report has been read with interest, and I quite agree with him in thinking the suggested disarmament of the natives impracticable, and certainly undesirable to attempt in the manner proposed by the King's Government.

I have, etc.,

W. Q. GRESHAM.

*Sir Julian Pauncefote to Mr. Gresham.*

BRITISH EMBASSY,  
Washington, December 12, 1893.

SIR: With reference to my note of the 28th ultimo, I have the honor to inclose an extract from a report furnished to the admiralty by Capt. Bickford, in command of Her Majesty's ship *Katoomba*, giving an account of his proceedings in connection with the pacification of the Navigators Islands.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure.]

*Extract from report of Capt. Bickford.*

I arraigned with Capt. Flechtenhüfer (the German senior naval officer) that the *Bussard* should do the work at Aunuu Island, whilst the *Katoomba* did the Pango Pango; also that the *Sperber* should call in at Pango Pango and communicate with me, and, if we had the chiefs on board, take them to Apia, the *Katoomba* remaining for a few days to see that order was kept.

On Friday, 22d September, I accordingly proceeded to Pango Pango, taking with me Mr. Maben (the secretary of state) and some chiefs of the Government and police. We arrived the same evening, and notices were at once sent to the different chiefs, many of them at some distance from Pango Pango, arranging for a meeting at 10 a. m. on Monday, 25th September.

On Saturday, 23d September, the *Bussard* called off Pango Pango (by previous arrangement), and Capt. Flechtenhufer sent me a letter, informing me that the chiefs from Aunuu Island had embarked on board the *Bussard*, and that he was leaving at once for Apia.

On Monday, 25th September, I landed with Mr. Maben and met the chiefs of Pango Pango district. I first of all told them that I had placed their statements before the King to the effect that they were prepared to submit to his decision in their quarrel; that a proclamation had been issued by the King, and countersigned by the three consuls (as representatives of the three powers), which would be read to them; that this proclamation had been issued also to the people in Aunuu, and had been obeyed by them, and that I felt sure they would also obey; that, of course, any who were disobedient to the King's proclamation would have to be punished.

I then requested Mr. Maben that the King's proclamation might be read. This was done, and after a few minutes one of the chiefs replied that they were perfectly



prepared to keep the promise they had given me, and to obey the proclamation of the King.

I then told the chiefs named that they must be on board that evening, and by sunset they were on board. The next morning the *Sperber* (as previously arranged), arrived and took these chiefs on board, also Mr. Maben and the members of the Government and proceeded to Apia, touching en route at Leone, to pick up the other chiefs of the Pango Pango party who were permitted to come on board there, as their districts were in that neighborhood.

I remained at Pango Pango till Friday, the 30th, when I returned to Apia. During our stay at Pango Pango I visited some of the villages to which the people had returned from Aunu, and they were beginning to rebuild their houses and reestablish themselves. At first there was some little excitement, but I think my visits and conversations had a reassuring influence. I also had some of the rival chiefs on board the *Katoomba* (those who were not taken to Apia) and explained to them that either party breaking the peace would be punished, and apparently they were now on good terms with each other.

On the 25th I received a small quantity of coal from the steamship *Upolu*.

The chiefs brought to Apia are now awaiting trial at Mulinuu. Unfortunately, the epidemic of measles (which is increasing in severity) prevents an immediate trial, but I am informed it will take place as soon as possible.

All is now quiet in the Samoan Islands.

I am told that taxes are being paid in, which has not been the case for some length of time (to any extent).

I think there is little chance of any organized attempt against the authority of the King, though, doubtless, from time to time there may be local troubles between rival chiefs, the misfortune being that there is no Government force to act. All these troubles would be easily put a stop to if there were a properly trained native force of, say, 100 men under some European officer, and some means of getting about the islands, such as a steam tug or launch. If the Government had this they could easily put a stop to any outbreak, and without any necessity of applying to the various representatives, the latter course generally eventuating in nothing being done.

I beg again to bring to your notice the cordial cooperation I have met with from the German naval commanders. Capt. Flechtenhüfer has often assisted me with his advice, and throughout this Samoan business our views have been identical and, when action was necessary, it has always been carried out with promptitude and exactitude. It has been a real pleasure to me to meet with such a cordial spirit on the part of my German naval colleagues.

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*Sir Julian Pauncefote to Mr. Gresham.*

WASHINGTON, *December 12, 1893.*

SIR: In accordance with instructions which I have received from the Earl of Rosebery, I have the honor to inclose a copy of a dispatch addressed to his lordship by Her Majesty's consul at Apia, reporting on the collection of native taxes in the Navigators Islands.

I have, etc.,

JULIAN PAUNCEFOTE.

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[Inclosure.]

No. 57.]

SAMOA, *October 9, 1893.*

MY LORD: I have the honor to report that in pursuance of the information the consuls had obtained that a considerable portion of the native taxes were already in the hands of the native collectors, as reported in my No. 33 of the 11th July, in concert with my colleagues acting as receiver and custodian of the revenues, I summoned the native tax collectors of this island of Upolu to a meeting which took place on the 4th September.

Nine out of the fifteen collectors attended, and others arrived too late for the meeting.

We found an utter want of system, and that our work was rendered difficult owing to there being no census of the native population.

We had previously had a meeting with the King and Government, and at its conclusion we asked the King to assist us in our interview with the tax collectors, but

he expressed so much disinclination that we saw at once our meeting with the tax-collectors was not intended to be successful.

On our part it was a game of bounce and we determined to play it out. We took each collector separately, which prevented any successful combined action by the tax-collectors, and we praised lists well prepared and sternly refused lists that showed signs of carelessness or worse. We spent a whole day patiently going through the lists.

We consults then made the King order the native tax to be paid in before the 1st October, and we arranged a meeting with all the tax collectors for the 3d October, on which day the result of our work was very evident: Eight thousand dollars were paid in and the lists and returns were infinitely improved.

We expect to get in about \$8,000 more this month. We ought to get a still further \$14,000, but there is no likelihood of our doing so.

There was at this time a serious dearth of ready money among the traders, and it was important to release as soon as possible the bulk of the money paid in by the Samoans.

The consults were unanimous in deciding to pay off the debentures issued by Baron Senfft von Pilsach, as reported in my No. 40 of the 28th July, as they had all been issued for salaries, and as we should, still have sufficient in hand to carry the Government on until the next taxes could be collected.

The debentures are accordingly now being redeemed daily.

I am pleased to be able to report this improvement in the financial position and credit of the Samoan Government, which has also improved the position of the municipal council, any contribution this year to the Government being now avoided.

It should be noted that while the whole of this money was paid in by the Samoans in British coin at 4s. to the dollar, it has to be paid out at 4s. 2d. to the dollar under the other rate of exchange.

I have, etc.,

T. B. CUSACK-SMITH.

*Sir Julian Pauncefote to Mr. Gresham.*

BRITISH EMBASSY,  
Washington, December 12, 1893.

SIR: In the note which I had the honor to address to you on the 24th of October last I inclosed a copy of a dispatch addressed by the Earl of Rosebery to Her Majesty's chargé d'affaires at Berlin respecting the deportation of Mataafa and other chiefs from Samoa.

I am now directed by his lordship to transmit to you a copy of a dispatch which he has received from Her Majesty's ambassador at Berlin, conveying the assent of the German Government to the proposal that the wives of the banished chiefs should be permitted to accompany them into exile.

I am desired at the same time to state that his lordship would be very glad to be favored at an early date with the views of the U. S. Government upon this subject.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure 1.]

*Sir E. B. Malet to Earl Rosebery.*

BERLIN, November 22, 1893.

MY LORD: Mr. Gosselin communicated to the Imperial Government the substance of your lordship's dispatch No. 256, of the 14th ultimo, respecting the question of allowing the wives of the Chief Mataafa and his followers to accompany their husbands into exile, and I now have the honor to inclose copy and translation of Baron von Marshall's reply to that communication.

I have, etc.,

E. B. MALET.



[Inclosure to inclosure.—Translation.]

*Baron von Marschall to Mr. Gosselin.*FOREIGN OFFICE,  
Berlin, November 19, 1893.

MR. CHARGÉ D'AFFAIRES: You were good enough to suggest, in your note of the 16th ultimo, that the wives of the Chief Mataafa and of his followers should be made to rejoin their husbands in exile. With regard to this matter I have the honor to inform you that the Imperial Government concur in the humane view taken in the note above mentioned and are willing that the lot of the exiles should be lightened by the presence of their families. In order to attain this end, as one of His Majesty's ships could hardly be employed for a transport of this nature, it would be necessary to find a suitable opportunity of sending the women to the place of exile by a merchant vessel. But before definite instructions on the subject are issued to the consul it will be necessary to obtain the concurrence of the Government of the United States to the proposed action.

In requesting you, Mr. Chargé d'Affaires, to be so good as to inform me of the outcome of the representations made to the U. S. Government in this sense,

I avail, etc.,

MARSHALL.

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*Mr. Gresham to Sir Julian Pauncefote.*DEPARTMENT OF STATE,  
Washington, December 21, 1893.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 12th instant in regard to the proposition of Her Majesty's Government that the wives of Mataafa and his banished followers should be permitted to rejoin their husbands in their exile. In his note of the 19th ultimo, copy of which you inclose, the German minister for foreign affairs states that "before definite instructions on the subject are issued to the consuls it will be necessary to obtain the concurrence of the Government of the United States to the proposed action."

The President recognizes the humane motives that prompted Her Majesty's Government in the premises, but before giving the assent of the Government of the United States he would be glad to learn for how long a time, approximately, it is proposed to keep these deported chiefs in exile.

Awaiting the further views of Her Majesty's Government upon the subject, and adding that a note in this sense has been addressed to your colleague, the German ambassador,

I have, etc.,

W. Q. GRESHAM.

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*Sir Julian Pauncefote to Mr. Gresham.*

WASHINGTON, January 4, 1894.

SIR: With reference to my note of the 12th ultimo I have the honor, by direction of the Earl of Rosebery, to communicate to you the inclosed copy of a dispatch from Her Majesty's consul at Apia to his lordship, reporting on the collection of native taxes and the financial arrangements made by the consular board.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure.]

No. 65.]

SAMOA, November 7, 1893.

MY LORD: I have the honor to report, with reference to my No. 57, of the 9th October that the consuls have collected a further sum of \$7,600 by way of native taxes, making a total up to to-day of \$17,247.

The total income of the Samoan Government having already exceeded the minimum fixed by the arrangement of the 6th June, 1893, the sums advanced by the municipality to the Government during the year have been refunded in accordance with the arrangement.

The consuls have sent a strong message to those tax collectors who have not already paid, and I think it is possible we may before another month collect the whole of the remainder of the native tax.

The creditors of the Samoan Government are pressing for payment, and it will be wise to meet them so far as may be possible. We have now not only greatly improved the financial position of the Government, but we can see our way towards carrying it on until the next set of taxes can be collected by M. Schmidt in March or April, 1894. These results have only been obtained by the cordial cooperation of my colleagues, and I should like to record the deep sense I entertain of the friendly unanimity and good feeling which have characterized the performance of our onerous duties since the departure of Baron Pilsach. As senior consul I am under a deep obligation to both my colleagues for their unfailing courtesy and ungrudging support.

I have, etc.,

T. B. CUSACK-SMITH.

*Sir Julian Pauncefote to Mr. Gresham.*

WASHINGTON, February 7, 1894.

SIR: On the receipt of your note of the 21st December last, I at once addressed a dispatch to the Earl of Rosebery, informing his lordship that the President of the United States, while fully recognizing the humane motives that prompted Her Majesty's Government to propose that the wives of Mataafa and the other deported Samoan chiefs should be permitted to join their husbands in their exile, would, before giving the assent of the United States Government to that measure, be glad to learn for how long a time approximately it was proposed to keep the banished chiefs in exile.

I have now received a dispatch from his lordship in reply, informing me that the views held on this subject by the German Government are to the effect that the question put by the President can not at present be answered, even approximately, as the situation in Samoa is still uncertain and incalculable, and as a considerable period must elapse before it can be seen how affairs at Apia will develop.

The Earl of Rosebery desires me to inform you that Her Majesty's Government entirely concur in these views and share the opinion of the Imperial Government that it would be a mistake, and a proceeding not reconcilable with the duties of the treaty powers towards the white settlers, if the return of the rebellious chiefs were permitted too soon, and before complete security has been established in Samoa.

I have, etc.,

JULIAN PAUNCEFOTE.

*Sir Julian Pauncefote to Mr. Gresham.*

WASHINGTON, February 7, 1894.

SIR: I am desired by Her Majesty's principal secretary of state for foreign affairs to inform you that, at the instance of the German Government, Her Majesty's Government have consented to the extension for



another year, namely to March 31, 1895, of the term fixed for the completion of the work of the Samoan land commission, upon the understanding that the three treaty powers should agree to adopt that course, and that the commission shall be closed at the earliest moment possible in the course of 1894-'95.

In desiring me to communicate this decision to the United States Government, Lord Rosebery observes that he has some reason to fear that the United States commissioner contemplates leaving Samoa immediately after the 31st March next.

The renewed absence of the United States Commissioner from Samoa would of course bring the work of the commission to a standstill, and entail unnecessary expense upon those governments whose commissioners remain upon the spot. His Lordship has consequently requested me to urge you to send telegraphic instructions to the United States representative to remain in Samoa until the work of the commission is completed.

The Earl of Rosebery is all the more anxious for this as he has heard excellent accounts of the competency of the commissioner for the duties he has to perform.

I am instructed to add that Lord Rosebery has been in communication in regard to this matter with the German Government, who entirely concur in the views held by Her Majesty's Government on the subject.

I have, etc.,

JULIAN PAUNCEFOTE.

*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, February 12, 1894.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 7th instant, concerning the agreement by the governments concerned to extend the labors of the land commission in Samoa until the end of the present year, and expressing the hope that in view of the understood desire of the American commissioner to depart for the United States about the 31st proximo he might be instructed to remain at his post until the work of the commission had been completed.

In reply I beg to assure you that the Department duly appreciates the considerations advanced by you in regard to the desirableness of finishing the labors of the land commission without further interruption.

I take pleasure in adding that Mr. William L. Chambers, the American commissioner, has been advised by telegraph that the time of the commission has been extended until the end of the present year, and that the Department considers it highly important that he should, if possible, remain at his post until the work of the commission is completed.

This wish of the Department has also been emphasized by a letter addressed to Mr. Chambers, presenting at length its reasons for his continuance at Apia, and urging him to do so unless it shall be found absolutely impossible.

I have, etc.,

W. Q. GRESHAM.

*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, February 17, 1894.

EXCELLENCY: I have the honor to inclose for your information a copy of a note from the ambassador of Germany of the 31st ultimo, in regard to the deportation of Mataafa and eleven chiefs from Samoa and the expense of their maintenance at Fakoofo, Union Islands, from August 3 to November 8, 1893, amounting, according to contract, to £22 per month.

I add a copy of my note of the 14th instant, saying that Mr. Blacklock, the consular representative of this Government at Apia would be, as he has been, instructed to draw upon the Secretary of State for one-third of the amount, being the quota of this Government towards those expenses, and pay it over to the British consul, who expected to visit the Union group in May next, for distribution in accordance with the German ambassador's suggestion. My note closed as follows:

I deem it proper to say in this connection, this Government does not understand that the detention of Mataafa and his chiefs by the three powers is to be prolonged for an indefinite number of years.

I have, etc.,

W. Q. GRESHAM.

*Sir Julian Pauncefote to Mr. Gresham.*

BRITISH EMBASSY,  
Washington, February 21, 1894.

SIR: I have the honor to inform you that I have duly communicated to the Earl of Rosebery the contents of your note of the 12th instant on the subject of the extension of the period fixed for the completion of the labors of the Samoan Land commission.

At the same time I pointed out to his lordship the discrepancy between the date which, by his instructions, I had mentioned in my note of the 7th instant as that fixed upon for the proposed extension and that named in your reply.

I have now received a telegram from his lordship, stating that Her Majesty's Government agree to the 31st December, 1894, as the date upon which the labors of the commission are to cease, instead of March 31, 1895, as stated in my above note.

In conveying to you this decision on the part of Her Majesty's Government I beg to express to you my thanks for the prompt manner in which you acceded to the Earl of Rosebery's request that you would urge upon the United States commissioner the importance of remaining at his post until the completion of the work of the commission.

I have, etc.,

JULIAN PAUNCEFOTE.



*Sir Julian Pauncefote to Mr. Gresham.*

BRITISH EMBASSY,  
Washington, February 21, 1894.

SIR: In accordance with instructions received from the Earl of Rosebery, I have the honor to inclose copy of a dispatch addressed to his lordship by Her Majesty's consul at Apia, reporting further complications in the Navigators Islands and the action which it is proposed to take in the matter.

I have, etc.,

JULIAN PAUNCEFOTE.

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[Inclosure.]

*Mr. Smith to Lord Rosebery.*

BRITISH CONSULATE,  
Samoa, January 3, 1894.

MY LORD: I have the honor to report that since the date of my last dispatch I have ascertained that war is almost inevitable. I have cabled to your lordship regarding a man-of-war, but I have every hope that the two officials supported by the consuls will succeed in averting any danger from the white residents.

Tamasese has been proclaimed King according to the most reliable information.

My colleagues have called for war ships, but I shall not request the senior captain, R. N., at Auckland to send a ship unless it is absolutely necessary.

I have summoned the three consuls and the chief justice and president to discuss the situation, and every effort will be made to settle the matter on the spot.

I have, etc.,

T. B. CUSACK SMITH.

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*Mr. Uhl to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, February 28, 1894.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 21st instant, inclosing a copy of a dispatch of the 3d ultimo, addressed to Lord Rosebery by Her Majesty's consul at Apia, in regard to the political situation in the Samoan Islands, in which he states that according to the most reliable information Tamasese has been proclaimed King and that war is almost inevitable.

The consular representative of the United States in a dispatch dated some three weeks later (January 29) reports a more pacific condition of affairs. He states that the threatening movement of Tamasese with which the year opened had collapsed, that Tamasese denied he had ever been chosen King, and that his rebellious adherents had surrendered for trial by the chief justice.

I have, etc.,

EDWIN F. UHL,  
Acting Secretary.

*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
*Washington, March 7, 1894.*

EXCELLENCY: Referring to the Department's note to you of February 12 last, relative to the extension of the period fixed for the completion of the labors of the Samoan land commission and to the efforts of this Government to induce the American land commissioner to remain at his post until the completion of the labors of the commission, I have the honor to inform you that I have received a report dated January 29 from the American land commissioner stating that during January, 1894, the commission had disposed of 326 claims, making 1,094 claims since his arrival, and leaving 986 yet on hand. He adds that if during February and March the commission shall make as good progress there will remain undisposed of on April 1 next in the neighborhood of 350 claims.

At the date of Mr. Chambers's report the bad weather season had commenced and would probably continue two months. He states that although the claims not yet disposed of are located at much greater distances from the seat of trial, which may cause delays in getting claimants, objectors, and witnesses together, the commissioners nevertheless hope to overcome the difficulties by the employment, if need be, of an assistant to the natives' advocate and additional messengers.

Mr. Chambers's report was written before he learned of the arrangement extending the time for the completion of the work of the commission. He states that the commissioners all recognize the importance of the work and the obligation resting upon them to complete it, if possible, before the 31st day of March next. From the tenor of his report it would seem that Mr. Chambers is not unwilling to give a few months more to the completion of the work and has doubtless acquiesced in the directions telegraphed him by this Government relative to remaining at his post for so much of the extended time as may be necessary to complete the labors of the commission.

I have, etc.,

W. Q. GRESHAM.

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*Mr. Uhl to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
*Washington, March 8, 1894.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 21st ultimo relative to the extension of the period fixed for the completion of the labors of the Samoan land commission, in which you urge the importance of the U. S. commissioner remaining at his post until the completion of the commissioner's work.

The Department's note to you of yesterday's date fully answers your request in this regard.

I have, etc.,

EDWIN F. UHL,  
*Acting Secretary.*



*Sir Julian Pauncefote to Mr. Gresham.*

WASHINGTON, *March 22, 1894.*

SIR: I duly communicated to the Earl of Rosebery the substance of your note of the 17th ultimo, together with copies of its inclosures, respecting the expense of the maintenance of Mataafa and other Samoa chiefs during their preliminary detention at Fakaofu.

I have now the honor to inform you, in accordance with instructions received from his lordship, that a dispatch has been addressed to the British consul at Samoa by the foreign office inclosing copy of my above-mentioned communication to my Government, and informing him that in case he should hereafter apply for authority to proceed to the Union Islands, Lord Rosebery would have no objection to the proposal, alluded to in Baron Saurma's note to you of the 31st January last namely, that he should hand over the amount due to the persons who are entitled to payment.

Mr. Cusack-Smith has also been informed that he may, if necessary, draw a bill upon Her Majesty's Government for the sum required as the share which falls to its charge, but that it would be preferable, as a matter of account, that the money should be provided in the first instance by the German Government, who will eventually claim one-third of the total expenditure from each of the other governments concerned.

I have, etc.,

JULIAN PAUNCEFOTE.

*Mr. Gresham to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
*Washington, April 2, 1894.*

EXCELLENCY: Referring to previous correspondence, especially to my note of the 7th ultimo, relative to the extension of the period fixed for the completion of the labors of the Samoan land commission and to the efforts of this Government to induce the American commissioner to remain at his post until such completion, I have the honor to inclose herewith a copy of a dispatch from Mr. Chambers stating that, for reasons given, it will be impracticable for him to remain in Samoa beyond the end of last month.

As only 579 claims remain unadjusted, none of which appear to concern citizens of the United States, it is thought that the British and German commissioners, constituting a majority of the commission under an agreement of the three powers, might dispose of the remaining claims, thus closing up the work of the commission and avoiding the delay which would supervene if it were deemed necessary to send out a new American commissioner to replace Mr. Chambers.

I have, etc.,

W. Q. GRESHAM.

*Mr. Uhl to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
*Washington, April 3, 1894.*

EXCELLENCY: I have the honor to transmit herewith for the consideration of Her Majesty's Government, having reference to the Department's note of September 22d last in relation to an allowance of \$1,500 to Mr. Henry C. Ide, chief justice of Samoa, for traveling expenses, a copy of a letter of February 23d last, in which, for reasons stated, Mr. Ide urges that an additional allowance of \$1,000 on that account be granted him in order to place his compensation upon an equality with that of his predecessor and the other officers at Apia.

The Department, before finally determining this matter, will be glad to ascertain the views of Her Majesty's Government upon the subject. The sum each Government would be called upon to pay would be \$333.33, or one-third of the whole amount.

A similar note has been addressed to your colleague, the German ambassador.

Asking that you will cause Mr. Ide's request to be promptly made known,

I have, etc.,

EDWIN F. UHL,  
*Acting Secretary.*

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*Mr. Uhl to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
*Washington, April 3, 1894.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 22d ultimo, respecting the expense of the maintenance of Mataafa and other Samoan chiefs during their temporary detention at Fakaofu, in which, referring to my note of the 17th February, you inform me that the British consul at Apia has been advised that in case he should apply for authority to proceed to the Union Islands, Lord Rosebery would have no objection to the proposal alluded to in Baron Saurma's note to this Department of the 31st January last, namely, that he should hand over the amount due to the persons who are entitled to the payment, and that the consul had also been informed that he might, if necessary, draw on Her Majesty's Government for the sum required as the share which falls to its charge.

I concur in the suggestion which concludes your note that "it would be preferable, as a matter of account, that the money should be provided in the first instance by the German Government, who will eventually claim one-third of the total expenditure from each of the other Governments concerned."

I have, etc.,

EDWIN F. UHL,  
*Acting Secretary.*

*Sir Julian Pauncefote to Mr. Gresham.*

BRITISH EMBASSY,  
Washington, April 14, 1894.

SIR: I have the honor, in accordance with instructions received from the Earl of Kimberley, to inclose the substance of a telegram, dated the 22d ultimo, which was received by his lordship on the 31st ultimo from Her Majesty's consul at Apia, reporting the outbreak of hostilities in Samoa.

I have, etc.,

JULIAN PAUNCEFOTE.

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[Paraphrase of telegram from Consul Cusack-Smith, Samoa, March 22, 1894, received March 31.]

Hostilities have been in progress since the 10th instant. Hitherto the Government troops have been successful. The foreign consuls have undertaken to mediate. An armistice has just been proclaimed and a satisfactory peace is expected to follow. It is not at all necessary to send a man-of-war to Samoa.

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*Mr. Uhl to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, April 19, 1894.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 14th instant, inclosing the substance of a telegram to the Earl of Kimberley from Her Majesty's consul at Apia, reporting the outbreak of hostilities in Samoa.

I have, etc.,

EDWIN F. UHL,  
Acting Secretary.

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*Sir Julian Pauncefote to Mr. Gresham.*

WASHINGTON, May 1, 1894. (Received May 2.)

SIR: With reference to my note of the 14th ultimo, respecting hostilities in Samoa, I have now the honor to inform you, in accordance with instructions from the Earl of Kimberley, that Her Majesty's consul at Apia reported by telegraph on the 27th of March last that he has still hopes that peace may be restored in Samoa, and that he does not share the anxiety felt by his United States colleague.

I have, etc.,

JULIAN PAUNCEFOTE.

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*Mr. Uhl to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, May 3, 1894.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 1st instant, informing this Department of the receipt by the Earl of Kimberley of a telegram, dated March 27th last, from Her



Majesty's consul at Apia, reporting that he has still hopes that peace may be restored in Samoa, and that he does not share the anxiety felt by his United States colleague.

I have, etc.,

EDWIN F. UHL,  
Acting Secretary.

*Sir Julian Pauncefote to Mr. Gresham.*

BRITISH EMBASSY,  
Washington, May 8, 1894.

SIR: I transmitted to the Earl of Kimberley copy of your note of the 2d ultimo, together with its inclosure, respecting the Samoan land commission, and the enforced departure of the U. S. commissioner.

I have now the honor, in accordance with his lordship's instructions, to inclose copy of a dispatch, which has been received at the foreign office from Consul Cusack-Smith, suggesting that Mr. Chambers should be requested to return to Samoa in two months' time in order to complete the work of the commission. Lord Kimberley desires me to express the hope that you may be able to prevail on Mr. Chambers to accede to that arrangement.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure.]

*Mr. Smith to Earl of Rosebery.*

SAMOA, March 28, 1894.

MY LORD: With reference to the land commission I have the honor to report that the U. S. land commissioner, Mr. Chambers, leaves Samoa to-day. No one has arrived to relieve him, and a delay of at least five weeks must, in any case, occur before the work of the commission can be fully resumed.

If the United States have not already appointed a fresh commissioner it might greatly expedite the conclusion of the commission's work if Mr. Chambers would return to Samoa in two months' time.

This he has privately told me he is willing to do, and that provided the remaining commissioners work steadily during his absence the labors of the commission should be completed within six weeks.

Mr. Chambers, had he been able to remain uninterruptedly in Samoa, would have, so I am well informed, seen the end of all the work in May.

He only leaves about 500 cases undealt with, and to him is mainly due the great acceleration in the working of the commission since November 3, 1893.

Mr. Chambers has been popular with all sections of the community.

I have, etc.,

J. B. C. SMITH.

*Sir Julian Pauncefote to Mr. Gresham.*

WASHINGTON, May 14, 1894.

SIR: With reference to my note of the 1st instant on the subject of affairs in Samoa, I have the honor, in accordance with instructions from the Earl of Kimberley, to inclose copy of dispatch from Her Majesty's

consul at Apia, reporting the steps taken by the consular representatives of the three powers, with a view to the restoration of peace in the Navigators Islands.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure.]

No. 14. Political.]

BRITISH CONSULATE, SAMOA.

MY LORD: I have the honor to report with reference to my No. 6, of January 30, that so far from ending the disturbances the action of the chief justice in imprisoning and fining the leaders of the rebellion in Aana only added fuel to the flame of discontent.

War rumors grew in intensity till, on March 10, President Schmidt hastily summoned the consuls "to a great fono (or meeting) about the war question," and begged us to assist him.

The consuls then learned for the first time that the Samoan Government had determined to wage war against the Aana people, and that specific orders had been issued to the Savaii contingent and other Government supporters to that effect.

A reference to the map in my No. 6 will make the situation clearer, while the origin of the war is explained in my No. 8 of January 2.

Fighting had taken place that same morning, March 10, and one chief on either side had been killed, and several wounded.

The consuls were unanimously opposed to any further fighting, but were not supported by the chief justice. The president was at this first meeting also in favor of war.

More fighting occurred on Sunday and Monday, and by this time there were 19 wounded in the temporary hospital at Apia, and probably an equal number at Leulumoega. In all about 30 were killed or died from their wounds in the various engagements—a heavy death roll, compared with former Samoan wars.

On March 11 the consuls found out that the Samoan Government, many members of which are really hostile to King Malietoa, had summoned to Apia, ostensibly for the defense of the Government, the district of Atua, and that these warriors were hourly expected in Apia.

We knew that their secret intention was to seize the King, overawe the Tuamasaga district, and then, joining with Aana, they intended to utterly crush the Samoan Government and the Tuamasaga district. As this would have involved fierce fighting in the municipality of Apia, with the greatest danger to the life and property of the white residents, the consuls, on March 12, waited on the president and the chief justice and formally protested against any armed contingents being summoned to the municipality, and at the same time handed to the president the appended proclamation, to which he gave his ready approval.

Subsequently we saw the King, who said we were quite correct in our opinion as to the loyalty of Atua and entirely approved our action. He said our proclamation was the only thing which would keep Atua from invading the municipality, and himself issued urgent orders in support of it.

Next day the Government party entered and burnt Leulumoega, the capital of Aana.

On the 14th messages arrived from Atua to the effect that the consuls' proclamation would be obeyed, and the uneasy feeling among the white residents abated.

On the 13th, in consequence of persistent rumors that ammunition was being supplied in large quantities to the natives, the consuls personally visited the stores of all their nationals and took an inventory of all arms and ammunition in order to prevent it being supplied to the natives. In this work we received the ready assistance of our nationals without an exception. President Schmidt made a similar inventory in the case of foreigners not subject to consular jurisdiction. Scarcely any ammunition was found to be in Apia, and the rumors have since proved to be untrue.

On the 16th the Government summoned the consuls hurriedly and told us that Atua would disobey the proclamation and come immediately to Apia with hostile intentions.

The Samoan Government begged the consuls to go to Atua and interview the Atua chiefs, and only permit such districts of Atua as were undoubtedly loyal to come to Apia.

This is a sort of ordeal common among the Samoans, and Atua expressed their satisfaction and agreed to obey the proclamation until the consuls otherwise ordered.

From sickness and other causes the consuls were unable to proceed to Atua until March, so when the fono or meeting was held at Saluafata I went on foot the day previous to see for myself the exact disposition of the Atua outpost through which I passed. At the fono the Atua chiefs expressed their willingness to join in a general peace and to delay their coming to Apia until the consuls had seen the Aana people and endeavored to stop the fighting in order to arrange peace.

Aana had two days previously sent to the consuls, offering to surrender to them and to abide by their decision.

We had great difficulty in inducing the native part of the Samoan Government to consent to peace; but on the 22d an armistice was arranged, which is still in force, and to-morrow the consuls will proceed to Aana, and I have every confidence that a satisfactory peace will be settled; after which, at our suggestion, a great meeting of all the chiefs in Samoa will be held, at which their grievances will be investigated.

My colleagues have cabled for war ships, but I do not consider any outside help is necessary or even desirable.

The consuls are working in complete accord with the white officials, who are supporting our efforts to mediate between the belligerents and would-be belligerents, and I shall personally relax no effort to settle this matter speedily on the spot.

I have, etc.,

T. B. CUSACK-SMITH.

*Proclamation.*

*To all Samoans:*

Whereas we have been informed that it is the intention of armed parties from various districts of Samoa to come to Mulinuu. Now, we, the consular representatives of the great powers, warn all Samoans that any armed party entering the municipality will be held by us to be acting contrary to the intentions and orders of the great powers.

We therefore strongly protest against any armed party leaving its own district unless at some future date the Samoan Government, with our approval, shall see fit to order otherwise.

T. B. CUSACK-SMITH,  
Her British Majesty's Consul.  
BIERMANN,  
Imperial German Consul.  
W. BLACKLOCK,  
Vice-Consul-General, United States of America.

APIA, March 12, 1894.

*Mr. Uhl to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, May 16, 1894.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 14th instant, in which you inclose copy of a dispatch from Her Majesty's consul at Apia, reporting the steps taken by the consular representatives of the three powers with a view to the restoration of peace in the Navigators Islands.

I have, etc.,

EDWIN F. UHL,  
Acting Secretary.

*Sir Julian Pauncefote to Mr. Gresham.*

BRITISH EMBASSY,  
Washington, May 28, 1894.

SIR: With reference to your note of the 3d of April last, I have now the honor to inform you, in accordance with instructions received from



the Earl of Kimberley, that Her Majesty's Government accede to Mr. Ide's application for an additional allowance of \$1,000 to cover his removal and traveling expenses to Samoa, upon the understanding that each of the three treaty powers will defray one-third of the sum in question.

As soon as I receive an intimation from you that an arrangement in the above sense has been effected, I shall have the honor to transmit to you the sum of \$333.34, being the share due from Her Majesty's Government.

I have, etc.,

JULIAN PAUNCEFOTE.

*Mr. Uhl to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, June 1, 1894.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 28th ultimo, saying that Her Majesty's Government accedes to the proposition to pay Mr. Henry C. Ide, chief justice of Samoa, an additional \$1,000 to defray his traveling and removal expenses, and that as soon as you are advised that an arrangement in this sense has been effected, you are prepared to pay over the sum of \$333.34, being the share due from Her Majesty's Government.

Upon the receipt of a note from his excellency the German ambassador, stating that His Imperial Majesty's Government assents to the proposition, it will give me pleasure to notify you, to the end that the British quota may be transmitted as you propose.

I have, etc.,

EDWIN F. UHL,  
Acting Secretary.

*Mr. Uhl to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington, June 13, 1894.

EXCELLENCY: In response to your note of the 8th ultimo concerning the desirability of the presence of the United States land commissioner in Samoa, I have the honor to inform you that Mr. Chambers will return as soon as he shall have completed the business which called him to the United States.

I have, etc.,

EDWIN F. UHL,  
Acting Secretary.

*Mr. Uhl to Sir Julian Pauncefote.*

DEPARTMENT OF STATE,  
Washington June 16, 1894.

EXCELLENCY: I have the honor to refer to the Department's note of the 1st instant in reply to yours of May 28 last, and to say that, by a

note from his excellency the German ambassador of the 8th instant, it appears that the Imperial German Government agrees to assume its share of the \$1,000 additional toward the traveling expenses of Mr. Henry C. Ide, chief justice of Samoa.

Baron Saurma adds that, after the British Government has expressed itself to the same effect and the United States have likewise assented thereto, the Imperial consul at Apia will be instructed to confer with his American and British colleagues respecting the joint payment of the sum in question.

I have advised the German ambassador of the nature of your note of the 28th ultimo and of your willingness to transmit the sum of \$333.34 in United States money, or its equivalent, to the Department, to be turned over to Mr. Ide.

I think, however, the better way is to instruct the three consuls at Apia to confer and to draw simultaneously upon their respective Governments for the sum of \$333.34 each, or its equivalent, and pay it over directly to Mr. Ide, who can give the necessary receipts, and thus end the matter.

I have requested Baron Saurma to see that the German consul at Apia is instructed in this sense, and shall be glad to learn that Her Majesty's consul there had been similarly instructed. The necessary directions will be immediately sent to Mr. Blacklock.

I have, etc.,

EDWIN F. UHL.  
*Acting Secretary.*

*Sir Julian Pauncefote to Mr. Gresham.*

WASHINGTON, July 31, 1894. (Received August 4, 1894.)

SIR: With reference to your note of June 16 last, I am requested by the Earl of Kimberley to inform you that Her Majesty's consul at Apia will be instructed to confer with his American and German colleagues respecting the joint payment to Mr. H. C. Ide, the chief justice of Samoa, of an additional sum of \$1,000 toward the expenses of his removal from the United States on taking up his post.

In accordance with your suggestion, Mr. C. Smith will be further instructed to draw upon Her Majesty's Government for one-third of the amount in question, i. e., \$333.34, or its equivalent, and to pay the money over direct to Mr. Ide, from whom he will obtain the necessary receipt.

I have, etc.,

JULIAN PAUNCEFOTE.

*Mr. Uhl to Mr. Goschen.*

DEPARTMENT OF STATE,  
Washington, October 8, 1894.

SIR: The U. S. commissioner on the Samoan land commission reports, under date of September 12, 1894, that the labors of the commissioners can easily be concluded within sixty days from that date, and that there is no necessity for the commissioners remaining in Samoa longer than the actual investigations of the claims may

require, only the services of the secretary being needed to prepare the schedule of papers for final delivery to the supreme court.

In view of this statement I have the honor to suggest that the three Governments cable identic instructions to their respective commissioners that the work must be completed so that the labors of the commission shall end and all reports and papers shall be forwarded to the supreme court within the time now agreed on, viz, December 31, 1894.

I have, etc.,

EDWIN F. UHL.

CORRESPONDENCE BETWEEN THE DEPARTMENT OF STATE AND THE  
GERMAN EMBASSY.

*Count Von Arco Valley to Mr. Blaine.*

[Translation.]

IMPERIAL GERMAN LEGATION,  
Washington, April 28, 1890.

MR. SECRETARY: The Government of His Majesty the Emperor, the Government of the United States, and the Royal Government of Great Britain, having agreed that the ratification of the general act of the Samoan conference should take place in such a manner that each of the powers concerned should issue but one ratification, and that those ratifications should be deposited in the archives of the foreign office at Berlin, the said ratifications were there deposited on the 12th instant.

A protocol on the subject was prepared which was signed by the representatives of the three signatory powers of the Samoan agreement.

In obedience to instructions received, I have the honor, Mr. Secretary of State, herewith to inclose a certified copy of the protocol.

Accept, Mr. Secretary of State, etc.,

ARCO.

*Mr. Blaine to Mr. von Mumm.*

DEPARTMENT OF STATE,  
Washington, October 22, 1890.

DEAR MR. VON MUMM: I have the honor to acknowledge the receipt of your personal note of the 21st instant, proposing by instruction of your Government to concede to the chief justice of Samoa the same salute as to a consul-general, and requesting that instructions to this effect should be at once sent to the commanders of our war vessels at Apia.

I am disposed to accept the views of your Government in this matter, and presume there will be no objection raised on the part of Great Britain.

I have therefore requested the Secretary of the Navy to telegraph the necessary orders to San Francisco, whence they will be transmitted by steamer to Apia.

I am, etc.,

JAMES G. BLAINE.



*Mr. von Mumm to Mr. Blaine.*

[Translation.]

WASHINGTON, *November 2, 1890.*

MR. SECRETARY OF STATE: Acting under instructions from my Government, I have the honor to inform you that according to Article IV, section 2, of the Samoan treaty, Mr. Carl Eggert, until now secretary to the imperial commissioner for the Marshall Islands, has been appointed by the Imperial Government as German member of the commission for the investigation and registration of titles to land in Samoa.

Mr. Eggert having been connected for a considerable length of time with the imperial consulate at Apia, and being acquainted with the art of surveying, seems especially well fitted to fill the position to which he has been appointed.

I have now the honor to suggest that you may likewise cause a member of the said commission to be appointed on behalf of the United States Government, in order that the commission may be able to begin its work as soon as possible after the arrival of the chief justice at Apia.

The imperial ambassador at London has been instructed to make a similar communication to the British Government.

I avail, etc.,

A. VON MUMM.

*Mr. von Mumm to Mr. Blaine.*

[Translation.]

IMPERIAL GERMAN LEGATION,  
*Washington, November 3, 1890.*

According to Article V, section 5, of the Samoa act, the appointment of a president of the municipal council of Apia is necessary; this officer is to be installed by the Samoan Government, and so far as may be possible, is to be jointly selected by the treaty powers.

The Government of His Majesty the Emperor has endeavored to find a person among the German administrative officers whose previous training and personal attributes qualify him to fill the position in question.

The undersigned now has the honor to name to the U. S. Government the Royal Prussian prime justiciary (*Oberamtmann*), Baron Arnold Senfft von Pilsach, and to recommend him, in the name of his Government, for the office of president of the municipal council of Apia.

The same proposition will be submitted to the Royal Government of Great Britain by the imperial ambassador at London.

Baron Senfft von Pilsach is 31 years of age, in religion a Protestant, and has filled a judicial office (that of *Regierungs-Assessor*) since May 14, 1888.

He has the best testimonials from his superior officers, and there is every reason to expect that he will discharge his duties as president of the municipal council at Apia in an upright, honorable, and impartial manner.

Baron Senfft von Pilsach is very familiar with judicial business, and is conversant with the English language.

Under these circumstances His Majesty's Government hopes that the U. S. Government will agree to his appointment.

The undersigned avails himself, etc.,

A. VON MUMM.

*Mr. Blaine to Mr. von Mumm.*

DEPARTMENT OF STATE,  
*Washington, November 21, 1890.*

DEAR MR. VON MUMM: I have the honor to acknowledge the receipt of your personal note of the 18th instant, informing me that Mr. Carl Eggert, the German member of the Samoan land commission, would leave for Apia early in December.

I am, etc.,

JAMES G. BLAINE.

*Mr. Blaine to Count von Arco-Valley.*

DEPARTMENT OF STATE,  
*Washington, December 9, 1890.*

SIR: I have the honor to acknowledge receipt of your note of the 4th instant, with which you inclose Nos. 23 and 31 of the imperial bulletin of the laws for 1890, which respectively contain the decrees of the Imperial Government for the regulation of the consular jurisdiction of the Empire of Samoa, in accordance with general act of the Berlin conference signed on the 14th day of June, 1889.

In acknowledging this communication, it is proper to observe that it is not thought that any special legislation will be required on the part of this Government to give the general act effect, so far as it touches the jurisdiction of the consul of the United States. Under the constitution of this Government, a treaty is a law of the land, and repeals, or modifies, as the case may be, prior and inconsistent laws, whether they be in the form of international conventions or of domestic statutes. This being so, it is thought that the general act, which has been duly ratified and proclaimed as a treaty between the United States, Germany, and Great Britain, will have due effect so far as the consular jurisdiction of this Government is concerned, without special legislation.

Accept, sir, etc.,

JAMES G. BLAINE.

*Count von Arco-Valley to Mr. Blaine.*

[Translation.]

IMPERIAL GERMAN LEGATION,  
*Washington, February 26, 1891.*

MR. SECRETARY OF STATE: I have the honor to inform you in obedience to instructions received the chancellor of the Empire, with the consent of the Governments of the United States of America and Great Britain, has appointed Baron Senfft von Pilsach as presiding

officer of the municipal board of Apia, under date of the 2d instant, and that Baron von Senfft will take his departure for his post on the 2d of March next by the imperial mail steamer which sails from Genoa.

The imperial representative at Apia will be instructed to cause the inauguration, in conjunction with his American and English colleagues, of the presiding officer of the municipal board by the Samoan Government, according to article v, section 5 of the Samoan act.

Accept, Mr. Secretary, etc.,

ARCO.

*Mr. Blaine to Count Arco-Valley.*

DEPARTMENT OF STATE,  
Washington, March 7, 1891.

SIR: I have the honor to acknowledge the receipt of your note of the 26th ultimo, and in reply to state that the consul-general of the United States to Samoa has been instructed to cooperate with his colleagues in the installation of Baron Senfft von Pilsach as president of the municipal council of Apia, agreeably to the pertinent provisions of the general act relating to Samoa.

Accept, sir, etc.,

JAMES G. BLAINE.

*Count Arco-Valley to Mr. Blaine.*

[Translation.]

IMPERIAL GERMAN LEGATION,  
Washington, April 24, 1891.

MR. SECRETARY OF STATE: No provision is made in the Samoa act for reimbursing the president of the municipal council of Apia for his traveling expenses and those incurred by him for his outfit. Since an officer has been appointed to fill this position who was obliged to go from Europe to Samoa, it would seem to be but reasonable that a suitable allowance should be granted to him by a special agreement on the part of the treaty powers for refunding the amount of his traveling expenses and those of his outfit. A similar arrangement has already been adopted in the case of the subordinate officers whom the chief justice took with him from Sweden.

I therefore have the honor, in obedience to instructions received, to inquire, Mr. Secretary of State, whether the U. S. Government would be willing to pay one-third of the amount required to reimburse Baron Senfft von Pilsach for his traveling expenses and his outfit.

This amount, according to the principles adopted when German officers of consular rank are sent to foreign countries, would be, altogether, 7,500 marks.

Hoping that this equitable proposition will meet the approval of your Government,

I avail myself, etc.,

ARCO.



*Mr. von Mumm to Mr. Blaine.*

[Translation.]

IMPERIAL GERMAN LEGATION,  
*Washington, August 24, 1891.*

MR. SECRETARY OF STATE: The royal ambassador of Great Britain at Berlin, by a note of the 3d instant, communicating the memorandum, a copy of which is inclosed, relative to certain differences of opinion which have arisen between the chief justice in Samoa and the Samoa land commission, requested the Imperial Government to give an expression of its opinion with regard to the method which should be adopted for the payment of the expenses entailed by the labors of the land commission.

I have the honor to inform you, Mr. Secretary of State, in obedience to instructions received, that the Imperial Government would be willing, should the same willingness exist on the part of the other treaty powers, to pay one-third of the necessary expenses which have grown out of labors of the Samoa land commission, in addition to the salaries of the members and the expense entailed by the taking of evidence by surveys.

In case of the agreement of the treaty powers on this point, the best way to prevent a postponement of the labors of the commission would be to instruct the three consuls to inform the chief justice of the decision of the governments, and to request him to furnish an interpretation of paragraph 2 of section 2, Article IV, of the Samoa act.

At the same time it would be well to authorize each of the three consuls to pay one-third of the expenses of the commission as approved by the chief justice, from the funds under their control.

As regards what is asked for by the land commission, subnumbers 1 to 8 of the memorandum, the Imperial Government shares the view of the Royal Government of Great Britain, viz, that the sums asked for are required for the completion of the labors of the commission.

It would, however, be well to urge the members of the commission to practice the strictest economy, and to leave it to them to secure the services of a person, at a moderate salary, to do the necessary writing and interpreting. The services of a special officer could thus be dispensed with.

Begging you to acquaint me with the view entertained by your Government on the foregoing points,

I avail myself, etc.,

A. VON MUMM.

*Mr. Wharton to Mr. von Mumm.*STATE DEPARTMENT,  
*Washington, September 9, 1891.*

SIR: I have the honor to acknowledge the receipt of your note of the 24th ultimo, relative to Mr. Haggard's memorandum concerning certain differences of opinion that have arisen between the chief justice in Samoa and the land commission in regard to the expenses of the commission in question.

This Government concurs in the view of the British Government, as stated, that the expenses set out in Mr. Haggard's report are necessary to the performance of the duties of the commission, and also in

the suggestion contained in your note that one person should be engaged by the commission who, for a moderate compensation, will perform the services of secretary and interpreter.

This Government would suggest that each consul be instructed by his Government to inform the chief justice that his Government is of the opinion that all the items of expenditure as stated in the letter of the land commission to the chief justice, dated May 30, 1891, are reasonable and necessary expenses of the commission for taking evidence and making surveys, and is willing to pay one-third of the same if he shall approve them. Meanwhile the consul-general of the United States at Apia will be instructed to pay one-third of the expenses of the commission which are approved by the chief justice, and if any of the particular items now in question should fail to obtain his approval, to pay this Government's share of them also.

Accept, sir, etc.,

WILLIAM F. WHARTON,  
*Acting Secretary.*

*Mr. v. Mumm to Mr. Blaine.*

[Translation.]

WASHINGTON, November 3, 1891.

MR. SECRETARY OF STATE: I have the honor, in obedience to instructions received, herewith to transmit to you a communication from Count von Schlieffen, chief of the royal Prussian staff of the army, whereby he tenders his warmest thanks to the War Department of the United States for a valuable collection of publications of that Department, which was transmitted to the royal Prussian grand staff by Mr Phelps, envoy of the United States of America.

Count von Schlieffen has the honor, at the same time, to send the accompanying works on military history, issued by the staff, to the War Department, and also to express the hope that the exchange of publications, which has been thus begun, may continue permanently.

I take the liberty, in conclusion, to remark that if any similar publications are hereafter to be sent to the imperial military authorities, it will afford me pleasure to forward them, unless it be preferred to send them directly to the foreign office through the envoy of the United States.

Accept, Mr. Secretary of State, etc.,

A. VON MUMM.

*Mr. von Mumm to Mr. Blaine.*

[Translation.]

IMPERIAL GERMAN LEGATION,  
Washington, December 10, 1891.

MR. SECRETARY OF STATE: In accordance with my instructions, I have the honor to transmit to you a memorandum concerning the recent occurrences in Apia, with the request that you will be good enough to let me have an expression of opinion on the part of the Government of the United States in regard to the reception of this communication.

I avail myself, etc.,

A. VON MUMM.

[Inclosure in place of an oral communication.—Translation.]

The Imperial Government has noted with satisfaction the contents of the communication which was addressed to the Chief Mataafa by the American consul, Gen. Sewall, in the interests of the rule of Malietoa. In the present complications between the president of the municipal council and the Samoan Government, however, the American representative, Mr. Blacklock, has, through his approval of the Government decree concerning the exclusion of German money in the payments of duties and taxes (which is in express contravention of the provisions of the Samoan act) on his part, contributed to diminish the authority of Freiherr von Senfft, and to increase the difficulty of his performance of the duties of his office.

The Imperial Government expresses the hope that the Government of the United States does not approve the position assumed by its representative in this matter, and that it will instruct Mr. Blacklock in the future to support Freiherr von Senfft in the performance of the duties of his difficult office.

The Imperial Government rests upon the Samoan act, and is ready to carry it out with entire loyalty and in harmony with the other treaty powers; it relies upon their cooperation, as only in this way can civil war in Samoa be avoided. In the present case it only needs a similar instruction to the three consuls to the effect that German money shall not be excluded, in contravention of the treaty, and that Freiherr von Senfft should receive the support of the consular representatives in his efforts to maintain treaty rights and especially to carry out the Samoan act.

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[Translation.]

*Relative to the currency question in Samoa and the return of Freiherr Senfft von Pilsach.*

FOREIGN OFFICE, BERLIN, November 20, 1891.

During the provisional administration of the custom duties and taxes at Apia a decree of the consular board of last year established the following equivalence between the other kinds of money receivable for payments of customs duties and taxes, by virtue of section 4 of Article VI of the Samoan act, and the denominations, dollars, and cents used in the said section: £1=\$4.86; 20 marks=\$4.76; and \$7 Chilean currency=\$5 American.

In the session of the municipal council of June 3 of the present year the latter, on the motion of the president, resolved, in order to simplify the accounts, to petition the Samoan Government to establish the equivalence of the pound sterling and the 20-mark piece with the \$5-piece of American money; and to receive in payment of customs, duties and taxes exclusively English and Chilean silver money, the latter, however, in view of the considerable fluctuations in value, only until November 15 of next year. The consular board, to which the resolution was presented for approval, decided in favor of delay in the treatment of this matter. Nevertheless, the municipal council presented the said resolution to the chief justice for his decision, in accordance with the Samoan act, and stated in the accompanying memorandum that the members of the council were not altogether unanimous on the subject, but that they agreed that the receipt of coins of different value was not in the interest of the inhabitants. At the same time the chief justice was requested to draft propositions in regard to this matter and to lay them before the King for his approval.

Mr. Cedererantz declined to do this, but left it for the judgment of the municipal council to present the said resolution in the form of a petition to the Government. This was done on July 24, and Freiherr von Senfft on this occasion advised the King to approve the resolution with an amendment that American silver should likewise be receivable for customs duties and taxes. The King expressed his approval, but desired to submit the matter for the decision of the faipule (native council), which, in his opinion, would make no objections.

On July 27, Freiherr von Senfft received from the King the surprising information that the faipule had resolved that from November 15 of this year only English and American gold and silver coins should be receivable for payments to the public offices. Freiherr Senfft von Pilsach gave no information of this resolution of the faipule to the municipal council, inasmuch as he proceeded on the supposition that the said resolution of the Government had no validity, since no opportunity had been given to him, as adviser of the King, to call his attention to the results of this resolution. In the session of the municipal council, which took place on the following day, the president, answering a member's inquiry on the subject, declared that a definitive regulation of the money question had so far not been made.



At the instance of the German member of the municipal council, Grevesmuhl, who had entered into private relations with Malietoa, and who was regarded as an opponent of the president, the King sent to Freiherr von Senfft on August 1 a formal approval of the resolution of the Government, communicated on July 27, which Herr von Pilsach again withheld from the municipal council on the ground mentioned. As a result of the remonstrances of Herr von Pilsach, who pointed out to the King that the Government was, owing to Article VI of the act, not justified, without the consent of the treaty powers, in issuing a decree of this character, which alone excluded the German money, Malietoa declared himself ready to urge the faipule to withdraw the resolution in question. In a session of the consular board Freiherr von Senfft explained the state of the case, and declared that the decree of the Government was not valid in view of section 4 of Article VI of the Samoan act, owing to the exclusion of German money. The German and the English representatives adopted this view, while Mr. Blacklock, the American consul, made no declaration of his views.

Despite the efforts of Freiherr von Senfft to induce the faipule to withdraw its decree, it was not done. Malietoa informed the three consuls of this in an identic note, and at the same time inquired whether the declarations of the president of the municipal council in regard to the provisions of the Samoan act, which were opposed to the decree, were correct. The three consuls answered this note separately, and only the German declared that the Government's resolution was in violation of the provisions of the Samoan act. The English consul answered evasively that he was not at present prepared to object to the resolution, and the American approved the resolution.

On August 12 the municipal council resolved that the valuation established by the three consuls in the year 1890 (which was mentioned in the beginning) for payments into the municipal treasury should again come into force, but that payments in silver should be allowed only to an amount of \$10. The consular board amended this resolution to read that German and English silver should not be received at all, but that American and Chilean silver should be received to any amount. The municipal council declared its acceptance of this, Freiherr von Senfft voting in the negative, and the consuls informed the King of this resolution in a joint note dated August 25. Freiherr von Senfft considers this direct communication between the consuls and the King an infringement upon his rights, and on the 5th of the previous month sent to the King his resignation as president of the municipal council, stating that he would remain in service until arrangements had been made for the further management of his office.

This partial resignation is of no effect until it receives the approval of the authority which nominated Freiherr von Senfft as president of the municipal council. The nomination was made by the imperial chancellor, in virtue of an understanding with the treaty powers, and the chancellor regards it as desirable, in the interest of peace and quiet in the Samoan Islands, that Freiherr von Senfft should remain at his post.

As grounds for his request to be relieved, Freiherr von Senfft declares that he can not hope that his labors at Apia will prove beneficial, as he does not possess the confidence of the King, who, following irresponsible advisers, has publicly compromised him. He thinks that this would not have been the case if he had received from the representatives of the three treaty powers the support which he was entitled to claim.

When Freiherr von Senfft opposed the resolution of the Samoan Government by which German money was excluded as a medium of payment of customs dues and taxes, he rested solely upon the Samoan act (Art. VI, sec. 4). The Imperial Government asks for no advantages over the other two treaty powers in Samoa, but it must decidedly oppose any infringement of the rights assured by virtue of treaties, as would be the case if German money should be excluded.

The Imperial Government is convinced that if the representatives of the treaty powers pay loyal regard to the provisions of the Samoan act it will be possible to restore peace and order to Samoa. To accomplish this, however, it is above all necessary that the respective representatives should not work against each other, but together in the interests of peace, and in this sense should also support Freiherr von Senfft.

The position of the latter officer must be modified in two particulars. On the one hand, he is mistaken in wishing to deny to the consular court, when unanimous, communication with Malietoa. On the other hand, Freiherr von Pilsach should not regard his relation to the latter as that of a minister to a European sovereign, and should not resign when he thinks that other influences are prevailing with him.

The president of the municipal council must not forget that he owes his appointment to the treaty powers.

*Mr. Blaine to Mr. von Mumm.*

DEPARTMENT OF STATE,  
*Washington, February 20, 1892.*

SIR: I have the honor to advert to our late conversation concerning affairs in Samoa, and in particular to a communication which this Government has received from the King of Samoa, complaining that the adherents of the rebellious chief, Mataafa, are defying and obstructing the authority of the supreme court of Samoa, and requesting the assistance of the men-of-war of the three treaty powers to enable the court to execute its warrants. It seems to this Government that, in order to carry out the spirit of the Berlin treaty, it would be advisable for the treaty powers to sustain in some proper and judicious way the present recognized authorities of Samoa. Assistance in support of the authority of the supreme court, if discreetly given, would seem to be well directed, and its moral and demonstrative effect might aid in quieting the existing troubles. I suggest, therefore, the wisdom of similar instructions being given by His Majesty's Government, by the Government of Great Britain, and by the Government of the United States, permitting any man-of-war of the three treaty powers, which for the time being may be present in Samoa, to render such aid as may be necessary in executing the warrants of the supreme court, such aid to be limited strictly to that purpose and to be rendered by the man-of-war at the request of the consul of its country, who will act in the matter, if the consuls of the three powers shall jointly decide in any particular case that there is necessity for such aid and shall request the consul to have it rendered. I shall be glad to be acquainted with the views of His Majesty's Government on this subject.

Accept, sir, etc.,

JAMES G. BLAINE.

*Mr. von Mumm to Mr. Blaine.*

IMPERIAL GERMAN LEGATION,  
*Washington, March 3, 1892.*

MR. SECRETARY OF STATE: I have the honor to inform you, in pursuance of instructions received, that the Imperial Government has relieved Mr. Eggert, who has hitherto been a member of the Samoa land commission, on account of his serious illness, and that, with a view to avoiding as far as possible any delay in the work to be done by the commission, it has by telegraph authorized the acting imperial consul at Apia to select a suitable person from among the Germans residing there, and to empower him to act provisionally as land commissioner until the arrival of the commissioner who is soon to be appointed.

The instructions sent some time ago by you to the American member of the commission, to expedite its labors, seem to be the more valuable and necessary since, according to the information in our possession, of the 3,705 land claims that have been laid before the land commission but 72 have been acted upon, and a final settlement of the 3,633 claims still remaining can not be expected within the period of two years, which has been allowed for that purpose, unless the work is expedited to the utmost possible extent. The German member of the land com-

mission, as I have already had the honor verbally to inform you, will make every effort to assist his American colleague in bringing the disputed claims to a speedy settlement.

Accept, Mr. Secretary of State, etc.,

A. VON MUMM.

*Mr. Wharton to Mr. von Holleben.*

DEPARTMENT OF STATE,  
Washington, March 10, 1892.

SIR: Referring to Mr. von Mumm's note of the 3d instant, relative to the action of your Government in authorizing the acting imperial consul at Apia to select a person to act provisionally as land commissioner until the arrival of the commissioner who is soon to be appointed, I have the honor to inform you that this Government accepts the temporary expedient in the expectation that the permanent appointment of Mr. Eggert's successor will be made as soon as possible.

Accept, sir, etc.,

WILLIAM F. WHARTON,  
Acting Secretary.

*Mr. von Holleben to Mr. Blaine.*

[Translation.]

IMPERIAL GERMAN LEGATION,  
Washington, March 23, 1892.

MR. SECRETARY OF STATE: Acting under instructions from my Government, and in order to settle the legal-tender question in Samoa, I have the honor to suggest to you that our representatives in Apia shall be directed to inform the Samoan Government that the exclusion of German coin is against the Samoan treaty, and that German coin must be admitted into Samoa just as well as United States and British coin, 20 marks to be taken as worth \$4.76.

I have the honor, etc.,

HOLLEBEN.

*Mr. Wharton to Mr. von Holleben.*

DEPARTMENT OF STATE,  
Washington, March 24, 1892.

SIR: I have the honor to acknowledge the receipt of Mr. von Mumm's note of December 10, 1891, and of your own of the 23d instant, in relation to the currency question at Samoa.

It gives me pleasure to say that a telegram will be at once transmitted to Mr. Sewell, the consul-general of the United States, Apia, instructing him to join with his German and British colleagues, whenever they may receive similar instructions, in representing to the Samoan Government that the Government of the United States is of



opinion that German coin should be admitted into Samoa as well as the coins of the United States and Great Britain, the 20-mark gold piece to be taken as worth \$4.76.

Accept, sir, etc.,

WILLIAM F. WHARTON,  
*Acting Secretary.*

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[To be considered as a verbal communication.]

*Memorandum.*

GERMAN LEGATION,  
*Washington, April 29, 1892.*

According to reports received in Berlin from Apia, the Samoan land commission on the occasion of a conference to settle a dispute concerning a land question decided in a prejudicial manner with reference to the interpretation of Article IV, section 8, of the Berlin general act of the Samoan Conference, unanimously agreeing that the acquiring of land at the period of the English-Samoan treaty could not be disputed by denying the right of disposing of it on the part of the Samoan seller.

The Samoan act, in section 8, Article IV, decides as follows:

SECTION 8. All lands acquired before the 28th day of August, 1879, being the date of the Anglo-Samoan treaty, shall be held as validly acquired (but without prejudice to rights of third parties) if purchased from Samoans in good faith for a valuable consideration in a regular and customary manner. Any dispute as to the fact of regularity of such sale shall be examined and determined by the commission, subject to the revision and confirmation of the court.

The sentence in parenthesis contained in this decision, "but without prejudice to rights of third parties," caused the native attorney to conclude therefrom that it was necessary to make an investigation of the question as to whether the Samoan seller had been the legal owner of the property which he had sold, and to assert, moreover, that the purchase should be considered illegal if the rights of a second Samoan had suffered in consequence of the sale made by a former one.

The commissioners decided that by the words "rights of third parties" such rights were not understood which a native Samoan affirmed to have acquired before the 28th of August, 1879, and that the words "in a regular and customary manner" do not require the proof of the Samoan seller's right of disposal.

This decision appears to be of the utmost importance for the security of property in Samoa belonging to foreigners and conducive to facilitate the work of the commission. It is to be feared, however, that the native attorney and the lawyers living in Apia who in consequence of this decision foresee the loss of many law suits will spare no efforts to obtain a reversal of the decision by the supreme court.

As the Imperial Government, the Government of the United States, and the Government of Great Britain agree in desiring to facilitate as much as possible the work of the land commission and to free it from objections or anything else which could impede their progress, which wish was recently expressed by the agreement of instructions to be sent to Apia, the Imperial Government, moreover, now proposes to unite in appending a declaration to division 8 of Article IV of the Samoa act, by which the decision of the land commission would be definitively approved and ratified.

DEPARTMENT OF STATE,  
OFFICE OF ASSISTANT SECRETARY,  
*Washington, May 11, 1892.*

I agree with this construction of section 8 of Article IV. We have, however, received no suggestions from our own officers as to this matter. I think that rather than to append a declaration to section 8 of Article IV of the general act by which the decision of the land commission would be definitely approved and ratified, as is suggested in the communication of the German Government, it would be better for each of the treaty powers to instruct each of its consular representatives at Apia to inform the chief justice, who, under section 4 of Article III of the general act, has the final decision of all questions arising under its provisions, that, in the opinion of his Government, the construction of section 8 of Article IV adopted by the land commission is the proper one. The chief justice would, under such circumstances, undoubtedly affirm the opinion of the land commission.

W. F. W. (WILLIAM F. WHARTON.)

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*Mr. Blaine to Mr. von Holleben.*

DEPARTMENT OF STATE,  
*Washington, May 11, 1892.*

SIR: I have the honor to inform you that I have received a communication from the chief justice of Samoa, dated March 2, 1892, explaining the reasons of his recent absence from his post.

While his absence from his post without previous notification and permission is regretted, this Government is indisposed to take any further action in regard thereto.

Accept, sir, etc.,

JAMES G. BLAINE.

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*Mr. Blaine to Mr. von Holleben.*

DEPARTMENT OF STATE,  
*Washington, May 19, 1892.*

SIR: I have the honor to acknowledge the receipt of your note of the 14th instant, in which you inform me that Mr. Eggert, the German member of the Samoan land commission, has had to leave his post by reason of illness, and that Mr. Greiner, chancellor of the German consulate at Sydney, who has been provisionally designated as acting German commissioner, sailed from Sydney on March 21 last for Apia.

Accept, etc.,

JAMES G. BLAINE.

*Mr. Wharton to Mr. von Holleben.*

DEPARTMENT OF STATE,  
Washington, May 21, 1892.

MY DEAR MR. VON HOLLEBEN: Adverting to our recent conferences, I have now the pleasure to inclose, for such use as you may decide to make of it, a memorandum as to the understanding of the Government of the United States touching the differences between the chief justice of Samoa and the land commission as to the interpretation of section 6 of Article IV of the general act of Berlin concluded June 14, 1889.

Very truly, yours,

WILLIAM F. WHARTON.

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*Memorandum.*

The Government of the United States, having examined a report made on March 2, 1892, by the American consul at Apia to the Department of State, a letter from the chief justice of Samoa to the Secretary of State, dated February 29, 1892, and a letter to the Secretary of State of the same date, from the U. S. land commissioner, all relating to a difference between the chief justice of Samoa and the land commission as to the interpretation of section 6 of Article IV of the Berlin general act of 1889, which reads as follows:

"SECTION 6. All disputed claims to land in Samoa shall be reported by the commission to the court, together with all the evidence affecting their validity; and the court shall make final decision thereon in writing, which shall be entered on its record.

"Undisputed claims and such as shall be decided valid by the unanimous voice of the commission shall be confirmed by the court in proper form in writing, and be entered of record,"

is of opinion that an instruction should be sent by each of the treaty powers to its consular representative at Apia, directing him to inform the chief justice that, in the opinion of the consul's government, the publication of the proclamation issued by the chief justice on February 23, 1892, was ill advised, as tending to unnecessarily belittle the land commission in public estimation, and to possibly interfere with the effectiveness of its work, besides creating an open breach between it and the chief justice, and that this statement was made to him in the hope that such open conflicts of authority would be avoided in the future.

That the consuls should inform the chief justice that the treaty powers substantially concurred in this construction of section 6 of Article IV, although this concurrence does not countenance any interference by him in the ordinary procedure or conduct of cases before the land commission.

The U. S. Government is also of opinion that each of the treaty powers should inform its land commissioner directly of the instructions sent to the consular officers.

The suggestion made by the German Government that the construction given by the chief justice to section 6 of Article IV of the general act should be applied only to future cases, for the reason that the mode of procedure, up to the present time, has been in conformity with the view held by the commission, seems to the U. S. Government unnecessary, because, even under that construction, or in that view, every case is to be reported to the supreme court, to be registered or otherwise disposed of by it. Moreover, the chief justice in his communication of February 29, 1892, states that not a single report has yet been sent to the supreme court by the commission, and that he had had, therefore, no opportunity to deal with any land case. It appears scarcely worth while to have different modes of procedure apply to the same class of cases.

The Government of the United States agrees with the German Government in approving the construction placed by the land commission on section 8 of Article IV of the general act, although it has received no information from its own officers in regard to the matter; but it thinks that it would be better for each of the treaty powers to instruct its consular representative at Apia to inform the chief justice, who, under section 4 of Article III of the general act, has the final decision of all questions arising under its provisions, that, in the opinion of the consul's government, the construction of section 8 of Article IV adopted by the land commission is the proper one, rather than, as suggested by the memorandum of the German Government, to append a declaration to section 8 of Article IV of the general act by which the decision of the land commission would be definitely approved and ratified.

The chief justice would, under the former circumstances, undoubtedly affirm the opinion of the land commission.

May 21, 1892.



*Memorandum.*

IMPERIAL GERMAN LEGATION,  
*Washington.* (Received May 27, 1892.)

The president of the municipal council of Apia, Baron Senfft von Pilsach, has addressed a report to the governments of the three treaty powers, under date of February 29, in which, with a view to remove the financial difficulties under which the Samoan Government is laboring, he proposed the adoption of an amendment to the Samoan general act of 1889.

Such addition would, by common accord, have to be introduced into the provisions respecting taxation and revenue in Samoa and stipulate that of the amount of taxes levied by the municipal council all except export duties should be entirely paid out to the Samoan Government, while of import duties two-thirds should go to the Government and one-third be appropriated by the municipal administration.

In a telegram dated the 28th of March, 1892, however, the president of the municipal council has notified the withdrawal of this proposed measure, and has explained that the reason for doing so was to be found in a decision arrived at by the supreme court of Samoa, according to which all customs duties would pertain to the Government of Samoa.

The Imperial Government would be grateful to know whether a similar communication has reached the Department of State, and to ascertain the views held by the U. S. Government with regard to the questions referred to above.

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*Memorandum.*

DEPARTMENT OF STATE,  
*Washington, June 4, 1892.*

This Government has received a report, under date of February 29, 1892, and also a telegram dated the 28th of March, 1892, both from the president of the municipal council of Apia, Baron Senfft von Pilsach, similar to the report and telegram referred to in the memorandum left here by the secretary of the German legation on the 27th of May, 1892. This Government deems it unnecessary to consider the suggestions raised by the report of February 29, 1892, since they have been withdrawn by the telegram of March 28, 1892, and since, moreover, this Government has received a further communication from Baron von Pilsach, under date of April 25, 1892, in which, while offering certain suggestions providing for the alteration of some of the items of the customs tariff adopted by the Berlin conference, he makes a new suggestion for the amendment of section 3 of article 6 of the Berlin general act by the addition at the end of the section of the following:

The proceeds of the customs duties shall be for the Samoan Government, except an amount or a portion which shall be fixed annually by the president of the municipal council of Apia, subject to the approval of the King, or, in the case of a difference between the King and the president, it shall be fixed by the supreme court of Samoa.

This suggestion is now receiving the consideration of the Department,

*Mr. von Holleben to Mr. Wharton.*

[Translation.]

IMPERIAL GERMAN LEGATION,

*Washington, June 6, 1892.*

MR. SECRETARY OF STATE: By your note of the 20th of February last, addressed to Mr. von Mumm, who was then the imperial chargé d'affaires, you stated that the U. S. Government agreed, in principle, to the proposal that any war vessel that might chance to be in Samoa might, if necessary, render suitable aid in the execution of warrants of arrest issued by the supreme court of Samoa, and asked, in conclusion, to be acquainted with the views of the Imperial Government on the subject.

As you will see by the inclosed draft of an instruction to be addressed by the Imperial Government to the consul of the Empire at Apia, the views expressed in your note of February 20 have, in general, been taken as the basis of the instruction.

I would remark that this draft has been communicated to the Royal Government of Great Britain, which has likewise agreed, in principle; and I have the honor to request you to inform me whether the U. S. Government is prepared to issue suitable instructions to its representative at Samoa.

I shall not fail to bring a communication on this subject without delay to the knowledge of the Imperial Government.

I avail myself, etc.,

HOLLEBEN.

*Draft of instructions to the German consul at Apia,*

FOREIGN OFFICE, Berlin, ———, 1892.

As you are aware Malietoa addressed to the three treaty powers, on the 9th of December, 1891, an identical note in which he requested the aid of their war vessels in the execution of the warrants of arrest issued by the supreme court of Samoa. The governments concerned are disposed to comply with this request in the interest of the maintenance of the judicial order established by the Samoan treaty, so far as this may seem to be necessary in this particular case, and to be required by circumstances. You are authorized to apprise the Samoan Government of this in such way as you may think proper, conjointly with your English and American colleagues, who will receive suitable instructions.

The negotiations concerning the procedure to be observed between the Imperial Government and the London and Washington governments have led to an agreement that the interference of war vessels in the cases under consideration is to be exclusively confined to effecting the execution of warrants of arrest issued by the supreme court, and that such interference shall take place at the requisition of the proper consular officer, who shall not make such requisition unless the consuls of the three treaty powers shall, in each particular case, have become convinced that such aid appears necessary, and when they have applied for it to the consular officer concerned. The execution of warrants in the case of persons who are not natives shall, if possible, take place through the agency of such war vessel as may be present, belonging to the nation to which the person under prosecution belongs. Compliance with requisitions, moreover, must as far as possible take place in regular rotation. In making requisitions, great caution should be used, and special care should be taken to the end that interference on the part of war vessels, when it takes place, may preserve the character of an executory measure directed against individuals, and may not lead to an act of war; consequently, no requisition shall be made for the services of war vessels in cases in which the object can be accomplished only by long expeditions into the interior. I would add, in conclusion, that it will, of course, be competent for commanders of war vessels to decide concerning the military practicability of requisitions, and I beg you, the case arising, to be governed by the foregoing directions.

*Baron Ketteler to Mr. Foster.*

[Translation.]

IMPERIAL GERMAN LEGATION,  
Washington, July 6, 1892.

MR. SECRETARY OF STATE: It is known that the president of the municipal council of Apia, Freiherr Senfft von Pilsach, tendered his resignation of his post in the autumn of last year, because King Malietoa had not complied with the advice given him on the question of the currency to be fixed upon for Samoa.

The request was at that time, after previous communication to the Governments of the United States and Great Britain refused by the Imperial Government, and Mr. Senfft von Pilsach was informed that circumstances rendered his continuance in the office desirable.

The president of the municipal council has now reiterated his request in renewed statements, addressed to the three treaty powers.

In accordance with instructions which I have received I have the honor, Mr. Secretary of State, to inform you that the Imperial Government intends to refuse the renewed request of Freiherr Senfft von Pilsach, there being no reason for revoking its former decision, as no change in the state of affairs at Samoa has taken place since that time.

The Imperial Government hopes that it may count on the acquiescence of the U. S. Government in this matter.

I avail myself, etc.,

KETTELER.

*Baron Ketteler to Mr. Foster.*

IMPERIAL GERMAN LEGATION,  
Washington, July 7, 1892.

SIR: Referring to Mr. von Holleben's note of May 14, I have the honor to inform you in accordance with instructions received that Mr. Greiner, chancellor of the German consulate at Sydney, who has been provisionally designated to act as the German member of the Samoan land commission, has arrived at Apia, and that he entered upon the duties of the office on the 1st of April of this year.

I avail myself, etc.,

KETTELER.

*Mr. Foster to Baron Ketteler.*

DEPARTMENT OF STATE,  
Washington, July 11, 1892.

SIR: I have the honor to acknowledge the receipt of Mr. Holleben's note of the 6th ultimo, and to inclose for your information a copy of an instruction to the vice-consul of the United States at Apia on the 11th instant, concerning the joint action of the three treaty powers in Samoa in the use of their war vessels to aid in the enforcement and execution of the warrant issuing from the superior court of Samoa.

Accept, etc.,

JOHN W. FOSTER.



*Memorandum.*

Any ship of war of the three treaty powers, which for the time being may be present in Samoa, may aid, when necessary, in executing warrants issuing from the supreme court of Samoa; such assistance is to be furnished only upon the request of the consular officer of the country to which the ship belongs, and such ship will act only when the consular officers of the three treaty powers are unanimously of the opinion that such assistance is necessary and shall authorize the request for assistance.

Assistance in the execution of warrants in the cases of persons other than natives should, if possible, be requested of a ship of war of the nationality of the person against whom the warrant is issued. Otherwise such assistance should be furnished by the ships of war in turn as far as practicable.

The action of ships of war hereby authorized is executory simply against individuals and is in no sense warlike, and no request should be made for their assistance when the object to be attained can be accomplished only by an expedition into the interior of the country.

The commander of the ship of war upon whom the request for assistance is made must in each case, in his discretion, decide whether or not compliance with the request is practicable in a military point of view.

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*Mr. Foster to Baron Ketteler.*

DEPARTMENT OF STATE,  
Washington, July 11, 1892.

SIR: I have the honor to acknowledge the receipt of your note of the 7th instant, in which you inform me that Mr. Greiner, chancellor of the German consulate at Sydney, who has been provisionally designated to act as the German member of the Samoan land commission, has arrived at Apia, and that he entered upon the duties of the office on the 1st of April last.

Accept, etc.,

JOHN W. FOSTER.

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*Memorandum.*

IMPERIAL GERMAN LEGATION,  
Washington, July 14, 1892.

In a memorandum, dated June 4 of this year, it was stated in conclusion that the decision given by the chief justice of Samoa, according to which all custom duties would pertain to the Government of Samoa, was receiving the consideration of the State Department.

This question having likewise been carefully considered by the foreign office at Berlin, on the representation made by the German consul at Apia under date of April 20 of this year, the Imperial Government is of opinion that the decision arrived at by the chief justice ought not to be sanctioned. For this opinion the following reasons are given:

As the carrying out of the decision of the supreme court would deprive the municipality of the largest part of their income, it has not met with the approval of that body, and has furthermore created strong antagonism on the part of the European and Australian papers, while the Department has no doubt been aware of the criticism of the American press.

The decision of Mr. Cedererantz has furthermore been taken without giving the municipal council an opportunity to make remonstrances

and state their rights, while it does away with a state of affairs hitherto recognized by the treaty powers to be founded on the principle of equity.

It is furthermore in no way in conformity with the stipulations of section 3, Article VI, of the Samoan general act relating to the distribution of revenues, which provisions, according to the opinion held by the Imperial Government, undoubtedly refer also to customs duties.

Considering the fact that the customs duties are almost entirely paid by the members of the municipality, it seems only just that their amount should be retained for municipal purposes.

Such appropriation of funds would furthermore guarantee a profitable and proper utilization thereof, which under existing circumstances could hardly be expected if handed over to the Government.

The Imperial Government trust that the United States Government will concur in the view that the former practice of appropriating the amount of customs duties for municipal purposes should remain unchanged.

In the case of consent it would be necessary to inform the consuls residing at Apia of the concurring opinion taken by the governments of the three treaty powers and to instruct them to address a joint communication on behalf of their governments to the president of the municipal council, authorizing him to receive as heretofore the customs duties for the use of the municipality.

A similar communication would have to be sent to the chief justice.

The Imperial Government takes it to be an established fact that the decisions given by the chief justice in the interpretation of the Samoan general act are in no way binding for the treaty powers.

An authoritative confirmation of this view is furthermore found in section 4 of Article III of the Samoan general act, which states that the decision or order of the court in questions arising under the provisions of the general act shall be conclusive "upon all residents of Samoa."

This legation would be greatly obliged for an expression of the opinion held by the State Department on the subject under consideration.

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*Baron Ketteler to Mr. Foster.*

[Translation.]

IMPERIAL GERMAN LEGATION,  
Washington, July 29, 1892.

MR. SECRETARY OF STATE: Pursuant to instructions received I have the honor to inclose herewith an extract from a report of May 26, 1892, of the English consul at Apia, which was communicated to the imperial foreign office by the British ambassador at Berlin, by order of his Government, and the contents of which will doubtless be of interest to the Government of the United States.

In the opinion of the English representative the restoration and preservation of a settled state of affairs in Samoa depend essentially on the administration established there, making it its first object to protect and promote the interests of the foreign settlers and merchants. Consul T. B. Cusack-Smith considers it necessary that the two European officials of the Government, the chief justice and the president of the municipal council, should consult with the consuls of the treaty powers more than they have hitherto done, in order to labor more in common for the attainment of that object.



The Imperial Government, which regards this opinion as perfectly correct, has been guided in all its propositions to which events in Samoa have given occasion, by the views upon which that opinion is based. This is especially the case as regards the position taken by the Imperial Government in the question of the apportionment of the custom-house receipts between the municipality and the Samoan Government, to which my memorandum of the 14th instant referred.

On the other hand, the Imperial Government can not avoid noticing that both the chief justice of Samoa and the president of the municipal council do not always, in their measures, pay sufficient consideration to the interest of the white population, but are rather inclined to subordinate those interests to those of the natives. The United States Government has, it is to be presumed, noticed the same facts, and it is, therefore, a question whether it is not expedient first of all to send a communication to the president of the municipal council in the sense of the views advocated in the English consul's report, and to join that communication to the answer to be given to Freiherr von Senfft's request to be permitted to resign, to which my note of the 6th instant to you referred.

Remarking that the Imperial Government has addressed a similar inquiry to London, I have the honor to request an expression of your views on the above subjects, and avail myself, etc.,

KETTELER.

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*Baron Ketteler to Mr. Foster.*

[Translation.]

IMPERIAL GERMAN LEGATION,  
Washington, August 13, 1892.

MR. SECRETARY OF STATE: In a memorandum drawn up in the English language, which I handed you on July 14, 1892, I stated, by the instructions of my Government, that the decision delivered by the chief justice of Samoa, awarding the receipts from import and export duties to the Samoan Government, conflicts with the provisions of the Samoan act, and that, in the opinion of the Imperial Government, it is expedient to restore the previous state of affairs, and to turn over these receipts hereafter, as heretofore, to the municipality. While I am still awaiting a reply to my memorandum and to a communication asking whether the U. S. Government shares our views, I have been informed by the foreign office that the president of the municipality of Apia has transmitted to Berlin a customs regulation issued in the name of the Samoan Government, with the request that the application of the regulation to the German subjects residing in Samoa be approved. A similar request has doubtless been sent to the U. S. Government. The regulation is based upon the hypothesis that the customs receipts belong to the Samoan Government. If this hypothesis is unfounded, as is believed by the Imperial Government, it follows that the regulation itself has no force. It is therefore important, in the opinion of the chancellor of the Empire, to take a position at once with regard to the customs question itself. The Imperial Government thinks that it would be of advantage to arrive at an agreement on this subject as soon as possible, as the further settlement of affairs in Samoa may depend essentially on the decision of this question.



I take the liberty of adding, that a reading and examination of the customs regulation which has been communicated to me from Berlin, "An ordinance regulating the collection and arrangement of the revenue of customs," even when considered by itself, has failed to convince me that its provisions are in harmony with the requirements of the situation in Samoa.

Entirely apart from the conviction that trade and navigation in Samoa would be excessively embarrassed and impeded by the approval of this ordinance, I think it my duty to call attention to the fact, that to execute the ordinance an employment of officials would be required involving expenses entirely disproportioned to the total (annual) receipts from the Samoan customs duties (about \$12,000 in gold).

Awaiting a speedy expression of the views of your Government,  
I avail myself, etc.,

KETTELER.

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*Baron Ketteler to Mr. Foster.*

[Translation.]

IMPERIAL GERMAN LEGATION,  
Washington, August 13, 1892.

MR. SECRETARY OF STATE: Pursuant to instructions which I have received, I have the honor to call your attention to the following details:

As is well known, land claims of foreigners which have been allowed must, in accordance with the Samoa act, be reported to the land commission established in Apia, for the purpose of investigation and subsequent registration. According to a tariff of fees of the "real property ordinance" drawn up by the chief justice of Samoa, he intends to impose a fee of \$5 for the registration (recording of every separate title to land, which fee is to go to the registering clerk, who, at the same time, discharges the duties of clerk of the court. From an approximate estimate, about three thousand land titles will be recorded. This would give to the clerk receipts to the amount of \$15,000. On the other hand, however, it would involve an oppressive burden on all foreign landowners. In the opinion of the Imperial Government, the chief justice has no authority singly to impose this charge on foreigners. Article VI, section 2, paragraph 2, of the Samoa act, provides "that a tax of one-half per cent is to be levied upon deeds of real estate, to be paid before registration thereof can be made." \* \* \* It is to be inferred that this includes all the charges to be laid upon foreign landowners for registration. In accordance with Article VI, section 2, no further charges beyond this tax could be imposed upon them without the assent of the consuls of the three treaty powers. This assent has not yet been either sought or given, and in view of the disproportionate height of the charge, could hardly be obtained.

In accordance with a communication which I have received from the chancellor of the empire, the Imperial Government does not find itself for the present in a position to recognize as having the force of law the fee which has been imposed upon the foreign land owners by the chief justice, and it is of the opinion that this view does not conflict with Article III, section 1, of the Samoa act, which provides that reasonable fees may be granted to the clerk of the court and to the marshal of the court.

The chief justice may fix such fees, but they can not be forced upon the foreign land owners until the consuls have assented to them; they ought rather to be paid by the Samoan Government, which in this case could obtain the necessary means from the one-half per cent taxes. The Imperial Government intends to send the fitting instructions to the consul at Apia, but before taking further action would be glad to be informed of the views of the U. S. Government, as well as whether it is prepared to send similar instructions to its representatives at Apia.

Requesting a speedy statement of the position which will be assumed by the U. S. Government regarding this action of the chief justice of Samoa,

I avail myself, etc.,

KETTELER.

*Mr. Adee to Baron Ketteler.*

DEPARTMENT OF STATE.

*Washington, August 15, 1892.*

SIR: I have the honor to apprise you of the receipt of a despatch from the vice-consul-general of the United States at Apia, No. 200, of the 19th ultimo, accompanied by the following notice that appeared in the Samoan Times of the 16th ultimo:

NOTICE.—During the months of August, September, and October ensuing, I shall continue to adopt for my receipts and disbursements the present rate of exchange, viz, the English pound sterling and the twenty-mark gold piece as equal to five dollars United States currency.

FRHR. SENFFT VON PILSACH,

*Treasurer.*

APIA, July 14, 1892.

It seems proper to invite attention to the circumstance that this published notification of Baron von Pilsach does not accord with the understanding reached, as stated in the Department's note to Mr. von Holleben of March 24, 1892, that the 20-mark gold piece was to be received as the equivalent of \$4.76.

It is not doubted that you will promptly communicate with the German Government upon this subject, and that it will cause the order of Baron von Pilsach to be rescinded and the agreement of March 24 last to be carried out.

Accept, etc.,

ALVEY A. ADEE,

*Acting Secretary.*

*Baron Ketteler to Mr. Foster.*

[Translation.]

IMPERIAL GERMAN LEGATION,

*Washington, August 18, 1892.*

MR. SECRETARY OF STATE: I have the honor, in obedience to instructions received, to inform you that the Imperial Government has been gratified to see, by the memorandum of the Department of State, of the 31st of May last, that the U. S. Government fully agrees with it touching the interpretation of Article IV, section 8, of the Samoa act, as

was stated in the second part of that memorandum, and that the U. S. Government has consequently adhered to our interpretation of the clause in question, according to which the legality of purchases of land made prior to the conclusion of the Anglo-Samoan treaty of August 28, 1879, can not be contested on the ground that the Samoan sellers had no right to dispose of their property. The Royal British Government has, however, declared, in reply to an inquiry made by the Imperial Government, that it declines, for the present, to express an opinion concerning this legal question, and that it considers it advisable to await the decision of the chief justice. Under these circumstances, and joint action of the treaty powers brought to bear upon the chief justice, as suggested in the memorandum communicated by Mr. Wharton is impracticable. The Imperial Government would, however, be grateful if the views of the U. S. Government, as regards the provision in question of the Samoa act could be communicated to the American representative at Apia, so that he might conjointly with his German colleague, uphold those views as far as possible.

Hoping to be favored with a reply concerning the decision of the United States,

I avail myself, etc.,

KETTELER.

*Baron Ketteler to Mr. Foster.*

[Translation.]

IMPERIAL GERMAN LEGATION,

Washington, September 15, 1892.

MR. SECRETARY OF STATE: Referring to my note of August 13, 1892, with regard to the action of the chief justice of Samoa, I have the honor, in accordance with instructions received, to make the following communication:

According to a report of July 18, 1892, from the Imperial consul at Apia, the chief justice intends to make the registration of the titles to land conditional in every separate case, on a previous survey of the land, to be made at the expense of those concerned. The Imperial Government is of the opinion that there is no need of the survey, and that the requirement finds no justification in the provisions of the Samoa act, Article IV, section 7, which speaks only of a registration of the titles to land. Apart from this, it seems clear to the Imperial Government that such a measure, even so far as it is practicable in view of the state of local affairs, would delay the settlement of land matters in Apia in an undesirable manner, and would impose disproportionate expense on those concerned. The Imperial Government intends, consequently, to refuse its assent to the measure, and to send corresponding instructions to the Imperial consul at Apia; and hopes that the U. S. Government will acquiesce in this view and send similar instructions to the American representative at Apia.

Most respectfully requesting a speedy expression of opinion on this subject, as well as on that contained in my note of August 13, 1892,

I avail myself, etc.,

KETTELER.



*Mr. Foster to Baron Ketteler.*

DEPARTMENT OF STATE,  
Washington, September 27, 1892.

SIR: I have the honor to inclose herewith a copy of a note of the 19th instant from Mr. Herbert, Her Britannic Majesty's chargé d'affaires *ad interim* at this capital, relative to a difference of opinion which has arisen between the consular board and the municipal council regarding the appointment of returning officers for municipal elections in Samoa.

I also inclose a copy of my reply in which the view of the British Government is concurred in, that the question at issue is properly one for the decision of the chief justice.

Accept, etc.,

JOHN W. FOSTER.

*Mr. Foster to Baron Ketteler.*

DEPARTMENT OF STATE,  
Washington, September 27, 1892.

SIR: I have the honor to acknowledge the receipt of your note of the 13th ultimo relative to a fee of \$5 which it is understood the chief justice of Samoa intends to impose for the registration of every separate title to land. You state that "the Imperial Government does not find itself for the present in a position to recognize as having the force of law the fee which has been imposed on the foreign landholders by the chief justice acting alone," and you ask to be informed of the views of this Government with respect thereto.

Section 7 of article 4 of the Berlin general act provides that—

The court shall make provision for a complete registry of all valid titles to lands in the Islands of Samoa which are or may be owned by foreigners.

As there is no provision otherwise for the payment of the expenses of this registry, it seems a reasonable inference that it is to be made at the expense of the landowners. In this country, where the system of registry of land titles generally prevails, a reasonable fee sufficient to cover the expense of the registry is always charged the owner, and this was so even when, for the purpose of raising revenue, a tax was at one time imposed upon transfers of title. The tax provided for under the second heading of Paragraph D, section 2, article 6 of the treaty, of one-half of 1 per cent upon conveyances of land is simply one of the taxes permitted to the Samoan Government in order "to obtain the necessary revenue for the maintenance of government and good order in the islands." There appears to be nothing requiring its diversion for the purposes of the expense of the registry or to require the Samoan Government otherwise to bear the expenses of such registry.

The real difficulty with the proposed fee of \$5 seems to be that it is not reasonable and can not, therefore, be defended under section 1 of article 3 of the treaty, or otherwise. Indeed, it is so disproportionate to the actual expense of the registry that it is rather in the nature of a tax upon the landowners; but the imposition of a tax otherwise than in conformity with the provisions of section 2, article 6, is clearly indefensible. A reasonable fee, however, sufficient to fairly cover the expenses of the registry at current rates of copying, this Government

is inclined to believe would be entirely proper. It would be disposed to join with the Imperial Government and with the Government of Her Britannic Majesty to secure a suitable modification of the fee accordingly.

I will add that no report upon this matter has yet been received from the American consul.

Accept, etc.,

JOHN W. FOSTER.

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*Mr. Foster to Baron Ketteler.*

DEPARTMENT OF STATE,  
Washington, September 29, 1892.

SIR: With reference to your note of July 29, inclosing a copy of a dispatch from the British consul in Samoa to his Government, under date of May 26, 1892, respecting the state of affairs in that island, I have the honor to inform you that I had previously received a copy of the same dispatch from Mr. Herbert. This Government has observed a friction between the different officials in Samoa, which is certainly most prejudicial to the interests of the island and is altogether unnecessary. It has felt also that neither the president of the municipal council nor the chief justice has always shown proper consideration for the consuls and the land commission. Whether or not they have preferred the interests of the natives to those of the white residents this Government of itself has no information. The circumstances of the former should especially commend them to the consideration of all officials in Samoa, but, of course, the just rights of the white settlers ought not to be neglected.

In the absence of further information, which it hopes to receive from its representative at Apia, this Government is not prepared to advise with respect to the exact form which would most conduce to bring about a better understanding, but it will gladly join with the Imperial Government and the Government of Great Britain in any feasible plan to that end.

Accept, etc.,

JOHN W. FOSTER.

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*Mr. Foster to Baron Ketteler.*

DEPARTMENT OF STATE,  
Washington, September 29, 1892.

SIR: I have the honor to acknowledge the receipt of your note of the 18th ultimo relative to the interpretation of section 8 of Article IV of the Berlin general act. You state that the British Government declines for the present to express an opinion regarding the correctness of the decision of the land commission to the effect that the validity of purchases of land made prior to the conclusion of the Anglo-Samoan treaty of August 28, 1879, can not be contested on the ground that the Samoan sellers had no right to dispose of the property. You request that the previously expressed opinion of this Government concurring in this interpretation of the section may be communicated to the American representative at Apia, in order that he, together with his German colleague, may uphold that view so far as possible. The decision of the

commission under the facts and circumstances of that particular case, or their decision in any other case to which they may apply a like rule, is according to the treaty subject to the revision and confirmation of the supreme court. As the question is purely a judicial one, in the absence of united action on the part of the three signatory powers, this Government feels constrained to refrain for the present from any further expression of opinion with respect thereto.

Accept, etc.,

JOHN W. FOSTER.

*Mr. Foster to Baron Ketteler.*

DEPARTMENT OF STATE,  
Washington, October 4, 1892.

SIR: I have the honor to acknowledge the receipt of your note of the 15th ultimo relative to a proposed ordinance of the chief justice of Samoa making the registration of land titles in those islands conditional in each case on a previous survey of the land to be made at the expense of those concerned. You inform me of the intention of your Government to refuse its assent to this measure, and express the hope that the Government of the United States will acquiesce in that view.

Section 7 of Article IV of the Berlin general act directs the supreme court of Samoa to make provision for a complete registry of all valid land titles held by foreigners. It is believed that there might be some justification for requiring a preliminary survey of land the title of which is to be registered or recorded, provided such survey were necessary in any particular case for its precise description. But only valid titles are authorized to be registered, and by the terms of Article IV of the treaty the validity of every foreigner's title to land must be established before the land commission and the supreme court. No title, therefore, can become the subject of registry until it has been approved by the commission and finally confirmed by the court. It must be presumed that a title thus established will be sufficiently definite and, if a survey had been necessary, that it would have been required by the commission. For that reason this Government, in concurrence with the Government of Germany, is disposed to refuse its assent to any general requirement making the registry of every title to land conditional upon a preliminary survey. The American consul will be instructed accordingly.

Accept, etc.,

JOHN W. FOSTER.

*Mr. Foster to Baron Ketteler.*

DEPARTMENT OF STATE,  
Washington, October 6, 1892.

SIR: I had for some time had under consideration a communication addressed to my predecessor by Baron Senft von Pilsach, the president of the municipal council of Apia, renewing the tender of his resignation and urging its acceptance, when I received your note of the 6th of July last, communicating the intention of the Imperial Government to refuse the renewed request of Baron Senft, there being, in its



judgment, no occasion to reverse its former decision, and inviting the acquiescence of this Government in so doing.

Being disposed to regard the first tender of Baron Senfft's resignation in October, 1891, as a hasty act, this Government was well disposed to offer no impediment to the course which the other powers adopted in urging its withdrawal; and the hope was, moreover, indulged in that the undesirable friction which had unfortunately developed between the chief officials of the Samoan administration might soon disappear.

In view, however, of the declaration now made by Baron Senfft von Pilsach that nothing has occurred that could have weakened the reasons of his first request, and sharing his frankly expressed belief that "frictions between those officials would be more prejudicial to the working of the Berlin treaty than any other frictions," I am disposed to believe that it is best for the three signatory powers to accede to the Baron's request to be allowed to resign his office, in which for some time he has manifestly continued with great reluctance.

Accept, etc.,

JOHN W. FOSTER.

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*Baron Ketteler to Mr. Foster.*

[Translation.]

IMPERIAL GERMAN LEGATION,  
Washington, October 7, 1892.

MR. SECRETARY OF STATE: Referring to your very polite note of the 27th ultimo, relative to a difference of opinion which has recently arisen between the consular board and the municipal council at Apia, with regard to the appointment of returning officers for municipal elections, I have the honor to inform you, Mr. Secretary of State, that according to a dispatch which was received yesterday from his excellency the chancellor of the Empire, bearing date of September 15, the same complaint of Baron Senfft von Pilsach concerning the consular board has been received by the imperial foreign office. I have the honor to inform you, by means of the inclosed memorandum, of the views of the Imperial Government, as they have already been brought to the notice of the Royal Government of Great Britain.

I avail myself, etc.,

KETTELER.

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[Translation.]

*Memorandum.*

The Imperial Government is of the opinion that, according to Article v, section 3, of the Berlin general act, the consular board should not in general defer voting upon the resolutions adopted by the municipal council on the ground that one or another of the consuls is awaiting instructions from his government. Yet the consular board has repeatedly adjourned from motives of expediency, without any objection being made by the municipal council. In a recent case, in which the point at issue was the promulgation of certain punitive provisions, the municipal council expressed its willingness to consent to such an adjournment, which had been proposed by the imperial consul expressly in order that he might be enabled to receive instructions. If the municipal council, in the case now under considera-

tion, contrarily to its previous practice, objected to a postponement of the matter, it might have brought the case before the chief justice for decision in the manner prescribed in the general act. It appears, however, that the municipal council, in this instance, also, made no objections to the settlement of the case by the consular board. The Imperial Government therefore thinks that no attention need be paid to the complaint. The foreign office will, however, cheerfully take occasion to instruct the imperial consul at Apia, confidentially, to do all in his power to the end that matters before the consular board may in future be settled with as little delay as possible.

Imperial German Legation, Washington, October 7, 1892.

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*Baron Ketteler to Mr. Foster.*

[Translation.]

IMPERIAL GERMAN LEGATION,

Washington, October 15, 1892.

MR. SECRETARY OF STATE: I have the honor, in obedience to instructions received, to lay before you the following:

A report made to the foreign office, under date of August 14, 1892, by the imperial consul at Apia, describes the sad state of political affairs which exists on the Samoan Island, and leads to the conviction that the protection of the lives, property, and trade of foreigners, which is guaranteed to them by the Berlin general act, can not be made effective unless energetic steps are taken to suppress the anarchy which prevails there.

The Royal Government of Great Britain and the Imperial Government reached an agreement, as is known, in September, 1891, concerning a common intervention of war vessels belonging to the three governments, the special object of which was the disarming of the natives. The United States Government declined to accede to this proposal on the ground that no revolutionary outbreak had yet occurred, that the proposed measures seemed calculated to frustrate the good effects that were to be expected from the Berlin conference, and that the mere presence of three war vessels would undoubtedly be sufficient to restore order in Samoa.

Thus it was that only an agreement of the three treaty powers was reached, according to which war vessels are under obligations to the supreme court of Samoa to render certain assistance of a non-military nature. It is evident that, under circumstances such as those described in the report just received from the imperial consul at Apia, i. e., the systematic plundering of foreign plantations by the armed bands of Mataafa, the assistance of the supreme court must be of no avail, even in case of the cooperation of the war vessels, as provided by that agreement. It is further reported that Mataafa's armed followers, to the number of upwards of a thousand, now occupy a fortified position, and the revolutionary outbreak which was regarded by the United States Government as being necessary to base action upon, has consequently become an indisputable fact.

The Imperial Government does not consider itself authorized, so long as the two other treaty powers do not refuse their cooperation, to uphold by itself the rights guaranteed by the Berlin act to Germans as well as to other foreigners in Samoa, but it thinks that it is entitled to claim the joint assertion of those rights.

It is, therefore, earnestly suggested by the Imperial Government that each of the three treaty powers send at least two war vessels for the res-

toration of peace in Samoa, which vessels shall have orders to intervene in the manner proposed last year by the British Government.

Referring to the interview which I had with you to-day, I have the honor, Mr. Secretary of State, in view of the urgency of the case, to beg you to be pleased to reply with as little delay as possible.

I avail myself, etc.,

KETTELER.

*Baron Ketteler to Mr. Foster.*

[Translation.]

IMPERIAL GERMAN LEGATION,  
Washington, October 15, 1892. (Received October 17.)

SIR: With reference to your notes of September 27 and of the 4th of this month, I have the honor, by direction of the chancellor of the Empire, to inclose herewith for your information copies of two communications addressed under date of the 13th ultimo by her Britannic Majesty's secretary of state for foreign affairs to the Imperial German ambassador at London, informing him of the concurrent intention of the British Government to refuse its assent to the proposed ordinance of the chief justice of Samoa making the registration of land titles held by foreigners in those islands conditional in each case on a previous survey of the land, and imposing a special fee for such registration.

I avail myself, etc.,

KETTELER.

[Inclosure No. 1.]

*Mr. Currie to the German ambassador at London.*

FOREIGN OFFICE,  
London, September 13, 1892.

MR. AMBASSADOR: Her Majesty's Government have given their attentive consideration to your excellency's note of the 14th ultimo, stating the objections entertained by the German Government to a fee for the registration of land titles which has been imposed by the chief justice of Samoa under an ordinance entitled the "real property ordinance, 1891," and asking for the views of Her Majesty's Government upon the subject.

Her Majesty's Government are advised by the law officers of the Crown, to whom your note was referred, that the issue of this ordinance by the chief justice was *ultra vires*, and they have instructed the British consul at Samoa in this sense.

It seems desirable that a collective communication should be made by the consuls of the three treaty powers to the chief justice, and Mr. Cusack-Smith will be authorized to take part in it as soon as your Government has arranged with the U. S. Government for the cooperation of their consul.

I have, etc.,

(In the absence of the Earl of Rosebery.)

P. W. CURRIE.



[Inclosure No. 2.]

*Mr. Currie to the German ambassador at London.*FOREIGN OFFICE,  
*London, September 13, 1892.*

MR. AMBASSADOR: With reference to my previous note of this date, relative to the "real property ordinance, 1891," issued by the chief justice of Samoa, I have the honor to acknowledge the receipt of your excellency's communication of the 3d instant respecting the proposed further action of the chief justice in regard to the registration of land titles.

Your excellency states that Mr. de Cederkrantz contemplates making the registration dependent in each case upon a preliminary survey to be made at the cost of the party interested, and you explain the reasons which lead the German Government to consider such a survey to be unnecessary in itself, as well as calculated to entail undesirable delay and to throw disproportionate expense on the persons concerned. You add that they propose under these circumstances to withhold their sanction from the measures, and to instruct the German consul at Apia to that effect.

I have the honor to acquaint your excellency that Her Majesty's Government concur in these views, and that Her Majesty's consul at Apia will be instructed in a similar sense.

I have, etc.,  
(In the absence of the Earl of Rosebery.)

P. W. CURRIE.

*Mr. Wharton to Baron Ketteler.*DEPARTMENT OF STATE,  
*Washington, October 19, 1892.*

SIR: I have the honor to acknowledge, with thanks, the receipt of your note of the 7th instant, inclosing a memorandum relative to the views of the Imperial German Government in regard to a difference of opinion which has recently arisen between the consular board and the municipal council at Apia with regard to the appointment of returning officers for municipal elections.

Accept, sir, etc.,

WILLIAM F. WHARTON,  
*Acting Secretary.**Mr. Wharton to Baron Ketteler.*DEPARTMENT OF STATE,  
*Washington, October 19, 1892.*

SIR: I have the honor to acknowledge, with thanks, the receipt of your note of the 15th instant, communicating copies of two communications from Her Britannic Majesty's Government to the imperial German ambassador at London, informing him of the concurrent intention of the British Government to refuse its assent to the proposed ordinance of the chief justice of Samoa making the registration of land titles held by foreigners in those islands conditional in each case on a previous survey of the land, and imposing a special fee for such registration.

Accept, sir, etc.,

WILLIAM F. WHARTON,  
*Acting Secretary.*

*Baron Ketteler to Mr. Foster.*

[Translation.]

IMPERIAL GERMAN LEGATION,  
*Washington, October 24, 1892.*

MR. SECRETARY OF STATE: Referring to my note of the 15th instant, relative to the joint intervention through vessels of war of the treaty powers in Samoa, I have the honor, in obedience to instructions received, to make the following further communication:

The royal Government of Great Britain having given it to be understood that it would take part in joint action by the three treaty powers, it is suggested by the Imperial Government that it would be well for the commanders of the war vessels to come to an understanding with regard to the measures to be adopted for the restoration of order in Samoa.

It would, however, be a question, in the opinion of the Imperial Government, whether the commanders should not be instructed, at least in a general way, concerning the object of the demonstration. If, therefore, an understanding on the subject should be reached by the governments, and should the instructions to be issued then come up for consideration, the following points might be thought worthy of attention: As was decided during last year's negotiations, the most desirable object to be attained will be the disarming of the revolutionists assembled at Malie, while that next in importance will be the disarming of the other natives. As regards Malie, the only way in which this object could be accomplished would probably be for all the vessels of war, in cooperation with the forces of the Samoan governmental party, to surround the position occupied by the revolutionists and force them to lay down their arms. It could probably only be decided on the spot to what extent landing, or at least boat maneuvers, would be required. Even after the action at Malie it would be necessary for the war vessels to remain in as close communication with each other as possible. With a view to facilitating the securing of the arms, it would be well to allow pecuniary compensation for arms voluntarily delivered up, as was proposed last year by the German and British consuls at Apia. This plan is not practicable, owing to the present financial situation of the Samoan Government. It might, however, be made a question whether the payment of arrears of the poll tax and of the tax on firearms might not be remitted to any person surrendering a gun, and whether a certificate to that effect might not be issued to such person. It might also be advisable to take the principal chiefs of the several villages or districts on board of the war vessels, and to keep them there until such a number of guns had been surrendered as, according to their statements, might be expected to be found in the localities. If an approximately complete collection of the weapons now in the country could be made in this way, no special punishment of Mataafa and his adherents might be necessary.

Hoping to be favored as speedily as may be convenient with a reply to the question raised in my note of the 15th instant, relative to the participation of the United States in the joint demonstration, I beg that what has been set forth in this note may kindly be considered when a decision is formed.

I avail myself, etc.,

KETTELER.

*Mr. Foster to Baron Ketteler.*

DEPARTMENT OF STATE,  
Washington, November 3, 1892.

SIR: I have the honor to inform you that your esteemed notes of the 15th and 24th ultimo, relative to affairs in Samoa, have received my attentive consideration.

In the former you advert to a report received from the imperial consul at Apia with respect to the Chief Mataafa, and you suggest that "each of the three treaty powers send at least two war vessels for the restoration of peace in Samoa, which vessels shall have orders to intervene in the manner proposed last year by the British Government." You refer, I assume, to certain suggestions communicated to this Government in a note from the British legation, dated August 24, 1891, contemplating the capture and disarmament of the Mataafa faction.

In the latter note you discuss the nature of the joint instructions which ought to be given to the naval vessels of the treaty powers. They contemplate generally an aggressive joint military movement for the capture and disarmament of Mataafa and his followers. You also propose the disarmament of the other natives, and to that end it is suggested that the principal chiefs of the several villages or districts might be taken on board the war vessels and detained until their people surrender their guns.

This Government, no less than the Government of His Imperial Majesty, regrets the numerous elements of discord prevailing in Samoa, among which must be counted the continued resistance to the government of Malietoa of his principal native chief. The situation certainly demands the careful consideration of the treaty powers, and this Government desires to share in such action, if any, as they may jointly deem to be wisest and most expedient. I regret, therefore, that I am not in receipt of sufficient information from the American consul at Apia to enable this Government at this time either to assent to the suggestions of His Imperial Majesty's Government or to dissent therefrom.

Although it is not conclusive of the suggestion that something ought to be done, it is pertinent to the question of its immediate urgency that so far as this Government is informed the situation at Malie is not different now from what it has been for more than a year. The latest report from our consul at Apia, dated October 8, is that there is "no sign of any immediate disturbance between the natives." Neither does your note disclose any information that Mataafa and his followers contemplate any change from their past policy of simply passive resistance to the authority of the Samoan Government. By the present mail, therefore, about leaving for Samoa, instructions have been sent to the American consul to promptly report upon the entire situation as respects the Chief Mataafa, and upon receipt of such advices the plan proposed by the German Government shall receive my further attentive consideration.

In the meantime this Government has arranged to dispatch at once a war ship to Apia to act in concert with the vessels of the German and British governments for the protection of life and property. Recognizing the latitude which must of necessity be given to the local representatives of the treaty powers, this Government will instruct its naval commander to join with his German and British colleagues in whatever action may be unanimously agreed upon by the consular rep-



representatives of the three powers. It is the desire of this Government, however, that until it has received and can consider the advices which it is awaiting, the joint action of the powers should avoid the precipitation of actual hostilities.

Accept, sir, etc.,

JOHN W. FOSTER.

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[Confidential. Handed to the Secretary of State by Baron Ketteler, German chargé, November 10, 1892.]

*Memorandum.*

The imperial German consul, Mr. Biermann, has reported from Apia to the foreign office, under date of September 10, with regard to the disturbed political situation in the Samoan Islands. The substance of this report tends to show that there is every probability of a serious outbreak of hostilities between the followers of Malietoa and the party of Mataafa. Armaments have been proceeded with on both sides, and the inhabitants of Aana, the western part of Upolu, have advanced towards Malie, but have subsequently come to a stop in order to await the armed cooperation of other districts.

The Samoan Government, acting under the advice and with the consent of the president of the municipal council, Baron Senfft von Pil-sach, and of the chief justice, Cedererantz, urge the followers of the Government party to attack Malie.

While it is an established fact that the plantations belonging to foreigners sustain heavy damages by all warlike operations within the country, as the assembled troops or mobs of both parties raid the plantations and rob or destroy the crops, it seems, furthermore, highly precarious for the Government to enter upon a warlike expedition, as even the leaders seem to have little hope of subduing their opponents in an effective and speedy manner, thereby bringing them into permanent subjection.

Apparently the Government has given up the belief of obtaining an armed cooperation of the three treaty powers in favor of Malietoa's authority. It is feared that a prolonged delay in attacking the party of Mataafa will only tend to strengthen his forces, and to make an ultimate victory more questionable. The attitude of the Samoan Government as prompted by the inaction of the great powers is illustrated by the following facts:

When the three consuls had duly informed Malietoa of the decisions of their Governments to assist the supreme court in the execution of warrants of arrest, he at once ordered Mr. Maben to expose to them his wishes with regard to such joint action, which are contained in a letter, dated Mulinu, August 25, and, marked Annex 1, inclosed herewith.

This letter was accompanied by a report of the marshal of the supreme court of Samoa, dated Mulinu, August 23, and addressed to the chief justice, and gives evidence of the armed resistance and hostile feeling of the natives. (Annex 2.)

The report addressed by the chief justice to the King, dated Mulinu, the 24th of August, shows that warrants of arrest issued by the supreme court are openly defied, its officers resisted, and the authority of the court utterly ignored. (Annex 3.)

It appears from a letter inclosed as Annex 4, and addressed by the three consuls to the King, that they decided in accordance with their

instructions not to comply with his request, as the desired intervention of a man-of-war in this case would be likely to lead to a warlike action.

In the meantime a certain American citizen, Mr. Moors, as well as a British subject, Mr. Stevenson, are said to make regular visits at Malie, and to their direct or indirect influence the offensive attitude and disrespect of Mataafa toward the government at Mulinuu, recognized by the treaty powers, is attributed.

According to information emanating from reliable sources a financial crisis at Apia is inevitable. Already in the month of September several outstanding accounts of importance had to be left unpaid, and also the salaries due to some officials have not been forthcoming.

The entire failure of the Government to meet their obligations was considered certain if within the following weeks native taxes could not be collected. This being highly improbable, Baron Senfft von Pilsach tried to evade a financial collapse by inviting tenders for the purchase of the Samoa Times.

The municipality has been forced to advertise the sale of a piece of land situated in the neighborhood of the German Hospital, and which only a short time ago had been purchased by the municipality from the English firm, McArthur & Co., the reason being that the first installment of the purchase money of £1,000 due in October was not available.

There is a great depression in trade; the natives are unwilling to pay taxes as well as to buy merchandise, and they economize in order to purchase ammunition in case of war.

The customs receipts are consequently low and are likely to be further reduced.

The above statements, taken from the report of the imperial German consul at Apia, show in an explicit manner the deplorable state of public affairs now existing in the Samoan Islands.

Imperial German legation, Washington, November 10, 1892.

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[Annex 1.]

DEPARTMENT OF STATE,  
*Mulinuu, August 25, 1892.*

SIR: I am requested by His Majesty, the King, to forward to you the copy of a letter he has received from his honor, the chief justice, stating that the execution of warrants of arrest issued by the supreme court against several persons residing at Malie had been forcibly resisted. The particulars are set forth in the inclosed copies of the warrants and the marshal's report.

The chief justice requests His Majesty to send a military force sufficient to enforce the execution of these warrants of arrest, otherwise he says it is impossible to uphold the system of judicature established by the final act of the conference in Berlin on Samoan affairs.

His Majesty and the Government are of opinion that if they were to send an armed force to Malie to attempt to execute these warrants of arrest in the present unsettled state of the country, blood would be almost sure to be shed, and a civil war with all its consequent danger to the persons and property of not only Samoans but foreigners would ensue.

It is His Majesty's wish to avoid this if possible, and therefore he feels justified in adopting the course which the reply of the treaty powers through their representatives here on the 10th instant leaves open to him, namely, to ask for the assistance of a man-of-war to help enforce the execution of warrants of arrest which have been issued by the supreme court.

His Majesty is of opinion that no further action of the man-of-war would be necessary than to take the officer of the court and land him opposite to Malie, and wait until the arrests were completed. His Majesty is well aware how anxious the treaty powers are to avoid taking any action in the internal affairs of these islands, but he would respectfully refer to the conditions under which the Berlin treaty was



made and accepted by Samoa and ask you to consider the gravity of the present position, and then decide whether it would not be better to take action in this case through a man-of-war and thereby prevent bloodshed, than to compel the Samoan Government to act with the almost certain result of considerable loss of life and damage to property. His Majesty and the Government feel convinced that the time has come when definite and determined action must be taken to enforce the decrees of the Government and of the courts of justice.

His Majesty makes the request for the assistance of a war ship by this identic note to the three consuls in accordance with the suggestion contained in the last clause of your joint communication to His Majesty on the 10th instant. He leaves the matter with perfect confidence in your hands, feeling certain that you will act for the best interests of both foreigners and Samoans.

As His Majesty considers the case an urgent one, he makes this request while Her Britannic Majesty's war ship *Curaçoa* is in Samoan waters.

I have the honor to be, etc.,

THOMAS MABEN,  
*Secretary of State.*

C. BIERMANN, Esq.,  
*Imperial German Consul, etc.*

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[Annex 2.]

MULINUU, SAMOA, *August 23, 1892.*

*To His Honor, the Chief Justice of Samoa :*

Herewith I beg to return two warrants issued by your honor, one for the arrest of Pio, Aigu, Tausisii, and Sia, and another for the arrest of Fli and Rosi, all at present residing in Malie, I having been forcibly prevented from executing the same by the people congregated at Malie.

The circumstances are as follows: On the evening of Monday, the 22d instant, I received the above-mentioned warrants from the clerk of the court, with instructions that they were to be immediately executed. I arranged to leave Mulinu'u on the following morning, which I did, arriving at the latter place at about half past 8 a. m. I was accompanied by a boat's crew of four men and an interpreter. On nearing the beach at Malie, a native stepped out on some stones and shouted to take down the Samoan flag, which was flying at the stern of my boat. This I at first refused to do, but upon consideration, and seeing an angry crowd on the shore evidently prepared for a quarrel, I decided to take down the flag, as I did not wish to provoke a disturbance. Upon landing, the boat's crew, the interpreter, and myself were surrounded by an excited and angry party of from 80 to 100 Samoans, many of whom were armed with axes, knives, and clubs. They demanded to know what my business was. I answered through my interpreter that I had come to execute warrants of the supreme court of Samoa. The crowd still continued to be angry and excited, when a Samoan, who appeared to be some person of authority, arrived at the spot, ordered them to be quiet and allow me to go to a house which he pointed out. I remained in this house for a short time, when two chiefs arrived, Leiātana Punivalu and Telea, who informed me that they had come to speak with me, and that they represented the King and Government, meaning Mataafa and those associated with him. They asked my business, and I informed them that it was not with them; that I had come to arrest several persons for whom warrants had been issued by the supreme court. They at once told me that they would not allow this, as they neither recognized the Government of Samoa nor the supreme court. I told them I was sorry to hear this, and as my orders were to arrest these people, I must endeavor to do so, if I could succeed in finding them. They informed me that force would be used to prevent me from arresting the persons I wanted. At this juncture Rosi, a person named in one of the warrants, came into the house where I was. I formally arrested him, telling him with what offense he was charged, and that he must accompany me to Apia. This he stated he would not do, and that if I attempted to remove him I would be forcibly resisted. The other chiefs also spoke again in like manner and appeared to become very excited. Seeing the large number of natives who were in and around the house, evidently bent upon forcibly resisting me, I came away feeling that I was powerless, under the circumstances, to effect the arrests. From the hostile feeling evinced by nearly all the natives whom I saw, I am convinced that considerably more force than I have at my disposal will be required to execute the warrants which your honor intrusted me with.

I have the honor to be, sir, etc.,

F. H. DENVERS,  
*Marshal of the Supreme Court of Samoa.*



## [Annex 3.]

MULINUU, August 24, 1892.

**YOUR MAJESTY:** Referring to my letter of the 3d of December, 1891, I have the honor to forward herewith copies of two warrants of arrest issued by the supreme court on the 22d instant against six individuals at Malie, all of whom are named in my above-mentioned letter.

I have to state that the marshal of the court, having yesterday proceeded to Malie in order to execute the warrants, returned the same day in the afternoon to Mulinuu without having succeeded, for the particulars of which executory measure I beg to refer to inclosed copy of the marshal's report.

Thus it appears that the condition of affairs in Malie complained of in my letter hereinbefore referred to still remains unchanged. Warrants of arrest issued by the supreme court are openly defied, its officers resisted and willfully obstructed in the execution of their duty; the jurisdiction, nay, the existence, of the court utterly ignored.

I therefore feel obliged once more to apply to Your Majesty's Government with a view to uphold the system of judicature established by the final act of the conference of Berlin on Samoan affairs, for such military assistance as may be deemed requisite by Your Majesty to enforce the execution of the above warrants of arrest.

I submit that Your Majesty, in view of the importance and urgency of this matter, should take the same into consideration immediately, and I also submit for like reasons that Your Majesty should request the advice of the president of the municipal council of Apia.

I have the honor to be, with the highest consideration, Your Majesty's most obedient and humble servant,

C. CEDERCRANTZ.

HIS MAJESTY, THE KING.

## [Annex 4.]

APIA, September 2, 1892.

**LAU AFIGA:** We, the consular representatives of the treaty powers, have the honor to acknowledge the receipt of your request for the assistance of a ship of war to execute certain warrants of arrest at Malie, the stronghold of the Chief Mataafa, and his followers.

We observe from the report of the marshal of the supreme court, that he was received with violence at Malie, that he was not permitted to land until he had himself hauled down the Samoan Government flag, then flying in his boat, and that the two chiefs who represented the party of Mataafa distinctly declared that not only the persons threatened to be arrested would resist, but that the said party, considering itself a Samoan Government, did not recognize your Government or the supreme court in Mulinuu, and therefore would make common cause in opposing by force the execution of any orders issued by your Government.

It must therefore be concluded that the warrants of arrest can only be executed after overpowering the resistance of the so-called Malie Government. Such a course would cease to be an executory measure against individuals and assume the character of a warlike action. Before we could accept the requisition for execution of the warrants of the supreme court by a man-of-war, we had to be convinced that the purpose of the intervention of the man-of-war could be accomplished.

Contrary to the opinion of your Afioga, we have not the conviction that only by the appearance of one man-of-war opposite to Malie, the whole Mataafa party could be induced to obey the orders of your Government, and any more extended action of the man-of-war we have not the right to demand. Our instructions are that the intervention of ships of war in these cases should have the character of an executory measure against individuals, and should not lead to any warlike actions. For these reasons we regret not to be able to comply with your request. We fully concur with your Afioga's opinion, that if you and the Government were to send an armed force to Malie to attempt to execute these warrants of arrest in the present unsettled state of the country, blood would be almost sure to be shed and a civil war, with all its consequent danger to the person and the property of not only Samoans but also foreigners would ensue, and this we are glad that you wish to avoid.

Finally, we must disclaim the imputation contained in the letter of Mr. Mabon, that our inability to comply with your request in this instance can be construed as compelling the Samoan Government to act with the almost certain effect of considerable loss of life and damage to property.

We have the honor to be, your Afioga, most obedient servants,

(Signatures of the three consuls.)

*Baron Ketteler to Mr. Foster.*

[Translation.]

IMPERIAL GERMAN LEGATION,  
*Washington, November 12, 1892.*

MR. SECRETARY OF STATE: The secretary of state for foreign affairs has seen, by your note of September 27, 1892, relative to fees for the registration of titles to land in Samoa, which I did not fail duly to transmit to him, that the U. S. Government also is prepared to refuse its recognition of the establishment of a fee of \$5 for the registration for every title to land in Samoa. The view expressed in the note of your Department of September 27, 1892, that the collection of a fee by way of compensation for the expenses incurred by the supreme court for copying, etc., would be proper, is accepted by the Imperial Government, which consequently intends to instruct the imperial consul at Apia in this sense, assuming that the U. S. Government will similarly instruct its representative, to the end that the chief justice may be apprised by a collective note of the consuls that the fee established by him in the real-property ordinance (\$5) is not recognized by the treaty powers as legal.

Hoping to receive a favorable reply on this subject from your Department, I avail myself of this occasion to renew to you, Mr. Secretary, etc.,

KETTELER.

*Baron Ketteler to Mr. Foster.*

[Translation.]

IMPERIAL GERMAN LEGATION.  
*Washington, November 15, 1892.*

MR. SECRETARY OF STATE: In reply to your note of the 6th ultimo relative to the resignation of Baron Senfft von Pilsach, in Apia, the contents of which were brought by me, without delay, to the knowledge of the foreign office at Berlin, I have the honor, Mr. Secretary of State, in obedience to instructions received, to make the following communication:

The Imperial Government has again considered the recall of Baron Senfft von Pilsach from his post as president of the municipal council of Apia, in view of the unmistakable impairment of his relations with the consuls and his official conduct in general. This it has done independently of the suggestion of the U. S. Government, contained in your note of October 6, 1892. The Imperial Government, however, thinks it important that he be relieved only with the proviso that the post of chief justice of Samoa be newly filled.

From various reports of the imperial consulate at Apia, the contents of which were in part transmitted to the Department of State in the different communications of this legation relative to Samoan affairs, it appears beyond a doubt that the influence which Chief Justice Ceder-crantz has exerted upon Baron Senfft von Pilsach has not been a good one.

The conflicts now existing between the latter and the consuls of the treaty powers, reference to which was made in your note of the 6th ultimo, are, in the opinion of the Imperial Government, to be attributed to this influence.



If, however, Baron von Senfft should alone be relieved, his successor would easily be brought into an undesirable state of dependence upon Chief Justice Cedererantz. The Imperial Government may therefore presume that a change in the person of the chief justice would be viewed with satisfaction by the U. S. Government. The British Government would also probably assent to the resignation of both these officers.

As regards the filling of these places, the secretary of state of the foreign office shares the views recently expressed by you, Mr. Secretary of State, on the occasion of our interview on the 11th instant, at the Department of State, to the effect that the selection of the persons who are to fill these positions should not be made in the same way as before, but by a direct understanding of the three Governments interested in Samoa, and so that men should be preferred who are already familiar with affairs in the South Sea, if possible, with those of the Samoan Islands themselves. These views would be met, in the opinion of the Imperial Government, by the appointment of Mr. Ide, who was formerly the American member of the Samoan land commission, as chief justice, and by that of Wilhelm Hennings, a German, who has been long engaged in mercantile pursuits in Fiji, as president of the municipal council at Apia.

Mr. Ide is very favorably known on account of his former course in Samoa. The foreign office at Berlin has been privately informed that he would be willing to accept the office. Application for the position has been formally made by Mr. Hennings. This gentleman is about 50 years of age, and for more than ten years has been merchant consul of the Empire at Levuka, Fiji. He has, moreover, filled the office of chief magistrate under the English Government for an important judicial and administrative district in Fiji. He is recommended by Sir John B. Thurston, governor of Fiji, and enjoys throughout the South Sea, especially in Samoa, the reputation of an honorable man. He was led to resign his consular position in 1879 by pecuniary losses which were chiefly due to a large fire. Mr. Hennings combines the advantages of experience and of special knowledge of affairs in the South Sea.

The Imperial Government would therefore agree to the simultaneous recall of Mr. Cedererantz and Baron Senfft von Pilsach, provided that the gentlemen above proposed should be appointed as their successors.

Hoping soon to be favored with a reply as to the manner in which these proposals of the Imperial Government are viewed by that of the United States,

I avail myself, etc.,

KETTELER.

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*Mr. Foster to Baron Ketteler.*

DEPARTMENT OF STATE,  
Washington, November 18, 1892.

SIR: With reference to the resignation of Baron Senfft von Pilsach as president of the municipal council of Apia, I have the honor to acknowledge the receipt of your polite note of the 15th instant, in which you state that the Imperial Government thinks it important that he should be relieved only on condition of a change also in the chief justiceship of Samoa. You further state that the Imperial Government believes that the requirements of the two positions might well be met by the appointment as chief justice of Mr. Ide, formerly the American member of the Samoan land commission, and by that of William



Hennings, a German who has been long engaged in mercantile pursuits in Fiji, as president of the municipal council; and that it would "agree to the simultaneous recall of Mr. Cedercrantz and Baron Senft von Pilsach, provided that the gentlemen above proposed shall be appointed as their successors."

The reports which this Government has received confirm the advisability of a change in the office of chief justice as well as in that of the president of the municipal council, and I am disposed, therefore, to assent to your suggestion to that end. I have no present opportunity for obtaining any further information in regard to Mr. Hennings than that communicated in your note; but I have made inquiries respecting the standing and qualifications of Mr. Ide, and the information received is of a very satisfactory character. If the British Government concurs in these two nominations the Government of the United States stands ready to accept them; and it also agrees with the Imperial Government that the annual salary of the president of the municipal council could wisely be reduced to \$3,600.

As Baron Senft von Pilsach has already tendered his resignation and solicited the approval of the treaty powers, it will only be necessary for them to concurrently signify their assent thereto. With respect to the chief justice, I have the honor to suggest that instead of proceeding under section 3 of Article III of the Berlin general act, it would be well for the treaty powers to first instruct their respective consuls to discreetly acquaint Mr. Cedercrantz with the decision of their governments that it was best for the harmonious administration of affairs in the Samoan Islands that new appointments should be made for the offices of chief justice and president of the municipal council; and that having accepted the resignation of the latter they would be prepared to accept the resignation of the chief justice.

I also avail myself of this opportunity to acknowledge the receipt of your memorandum of the 10th instant, relative to the disturbed political condition of the Samoan Islands, which has received my attentive consideration.

Accept, sir, etc.,

JOHN W. FOSTER.

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*Mr. Foster to Mr. von Holleben.*

DEPARTMENT OF STATE,  
Washington, November 22, 1892.

SIR: Baron von Ketteler's memorandum of July 14 last, expressing the views of the Imperial Government upon the difference of opinion which has arisen as to the apportionment of the import and export duties in Samoa, has had my careful consideration. On the 2d instant I also received from the British chargé a copy of Lord Salisbury's note of August 12 to Count Hatzfeldt, expressing the views of the British Government upon the same subject.

Section 4 of Article III of the Berlin general act provides that the supreme court of Samoa shall have jurisdiction of all questions arising under its provisions. But its competence to render a decision with respect thereto is believed to be limited to suits or references regularly before it in accordance with the specific provisions of the act. As a court it is bound to proceed in accordance with usual judicial procedure. Otherwise parties in interest would receive no hearing, and mat-

ters of the gravest importance, as in this instance, might be finally settled in proceedings entirely *ex parte*. This Government, therefore, is disposed to agree with the Imperial Government and with the Government of Great Britain that the opinion of the chief justice of Samoa with respect to the revenues, given March 28 last, was not rendered in the line of the duty of the court or in accordance with the terms of the treaty; and that, being extrajudicial, it ought to be treated as a nullity. The Government of the United States will be pleased to join in any concurrent communication of this view to the chief justice or other officials of Samoa, as may be deemed most expedient.

As regards the correct interpretation of section 3 of Article VI, of the treaty, it must be admitted that its language is ambiguous and that it is not free from doubt whether the import and export duties belong by its terms exclusively to the Samoan Government in accordance with the chief justice's latest opinion or exclusively to the municipality in accordance with his earlier opinion, or partly to each. Practically, however, this Government is impressed with the belief that there ought to be some fair division of the revenue between the Government and the municipality, and that its exclusive assignment to either would be essentially unjust to the other. If the terms of the treaty should be finally held to require the latter, then in the opinion of this Government the treaty ought to be amended in that regard. But I join in the hope expressed by the Government of Great Britain that "the contending parties may still be able to arrive at a common understanding upon this point which shall be alike satisfactory to themselves and to the treaty powers."

Accept, etc.,

JOHN W. FOSTER.

*Mr. Foster to Mr. von Holleben.*

DEPARTMENT OF STATE,  
Washington, November 22, 1892.

SIR: With reference to Baron von Ketteler's note of August 13 last, relative to an ordinance of the Samoan Government dated April 25, "regulating the collection and arrangement of the revenue of customs," I have the honor to inform you that this Government has also received copies of this ordinance from the president of the municipal council, with the request that it would "order the necessary steps to be taken for the purpose of rendering applicable the provisions of said ordinance to the United States citizens living in Samoa." The ordinance was apparently issued on account of the opinion of the chief justice given March 28 last, to the effect that the import and export duties in Samoa belong exclusively to the Samoan Government. Inasmuch as the three treaty powers are agreed that that opinion was extrajudicial and ought to be treated as a nullity, and as they will undoubtedly soon make some concurrent expression of that view to the proper Samoan officials, no further action with respect to the ordinance seems to be necessary at the present time.

Accept, etc.,

JOHN W. FOSTER.

*Mr. Wharton to Mr. von Holleben.*

DEPARTMENT OF STATE,  
Washington, November 25, 1892.

SIR: I have the honor to acknowledge the receipt of Baron Ketteler's note of the 12th instant, relative to the agreement in opinion of the governments of the United States and the German Empire as to refusing to recognize the establishment of a fee of \$5 for the registration of land titles in Samoa, and to state that the consul of the United States at Apia will be duly instructed with regard thereto.

Accept, etc.,

WILLIAM F. WHARTON,  
*Acting Secretary.*

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*Mr. Foster to Mr. von Holleben.*

DEPARTMENT OF STATE,  
Washington, December 6, 1892.

SIR: I have the honor to state for your information that I am in receipt of a telegram of the 6th instant from the U. S. vice consul-general at Apia, which reads as follows:

Chief justice notified by consuls. Refuses compliance with directions of three powers respecting survey and register fees.

Accept, etc.,

JOHN W. FOSTER.

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*Mr. von Holleben to Mr. Foster.*

[Translation.]

IMPERIAL GERMAN LEGATION,  
Washington, December 13, 1892.

MR. SECRETARY OF STATE: In reply to your note of the 3d ultimo, addressed to Baron von Ketteler, then imperial chargé d'affaires, in reference to sending vessels of war to Samoa, I have the honor to state, in obedience to instructions received, that the British Government also has now sent one of its war vessels to Samoa, in order that it may, in conjunction with the vessels of the other powers, protect the lives and property of foreigners there. His Imperial Majesty's cruiser *Buzzard* is now at Apia.

While the Imperial Government confidently expects that the presence of the three war vessels will have a salutary effect upon the state of affairs in Samoa, it still thinks that permanent success in this regard is only to be expected from the disarmament of the natives.

Accept, Mr. Secretary of State, etc.,

HOLLEBEN.



*Mr. Foster to Mr. von Holleben.*

DEPARTMENT OF STATE,  
Washington, December 24, 1892.

SIR: Replying to your esteemed note of the 13th instant, in which you state that the British Government has sent one of its war vessels to cooperate in the protection of life and property in Samoa, and that the German cruiser *Buzzard* is already at Apia, I have the honor to inform you that, in accordance with my note of November 3 to Baron Ketteler, the United States steamship *Alliance* sailed for Samoa from Honolulu November 26. I am still awaiting, but hope to receive soon the report from the American consul at Apia to which I adverted in that note.

Accept, etc.,

JOHN W. FOSTER.

*Mr. Foster to Mr. von Holleben.*

DEPARTMENT OF STATE,  
Washington, December 29, 1892.

MY DEAR MR. MINISTER: I inclose herewith the copy of the dispatch (No. 240) from our acting consul-general at Samoa which I promised in our interview this morning.

Very truly, yours,

JOHN W. FOSTER.

*Mr. Blacklock to Mr. Wharton.*

No. 240.]

CONSULATE GENERAL, U. S. A.,  
Apia, Samoa, December 6, 1892.

SIR: In reply to Department's instruction No. 121, dated November 3, 1892, I have the honor to say that, with the exception of a few minor native rows in different parts of the group, affairs in Samoa remain unchanged, and there is no apparent danger from the Mataafa movement assuming an aggressive aspect at present.

This Mataafa movement is gradually losing strength, and his chiefs are getting tired of trying to get new allies, and I think have about given up the idea of attempting any active hostilities towards the Government.

Matters are just about as they have been for over a year, and as reported in my dispatch No. 149, of December 8, 1891, with respect to the King's party wanting to attack Malie. Only to-day a messenger came to me to say that Atua, Tuamasaga, and Faasaleleaga were ready for an attack on Malie, but when I speak with them on the subject they always say that if a new chief justice and president were appointed the Malie party would break up. I give them hope that such a deliverance is possible and they postpone operations.

After my dispatch No. 216, of October 8, was written affairs took a turn for the worse among the natives, as reported in my dispatch No. 229, of November 9, 1892; now again the aspect is more peaceful; and so these changes have been taking place for years.

Ever since Mataafa's establishment at Malie he has endeavored to gather strength, and there is not the slightest doubt, had he been successful in getting sufficient following, he would have made war upon Malietoa. He has done everything in opposing the Government except making war; he has defied its courts, obstructed its officials in the execution of their duties, harbored refugees from justice, succored and supported prisoners escaped from prison, and at the present moment is living in open defiance of the King and Government and all the laws of the country, keeping up an armed force and plundering foreigners' plantations for subsistence.

Time and again have white officials who went to Malie with warrants for the arrest of offenders been driven away by Mataafa's soldiers and warned against attempting any arrest under penalty of death.

Once two or three of his refugees came to Mulinuu to attend trial for some petty offense, after, however, having been sheltered by Mataafa and the officer of the

supreme court who went to arrest them having been ordered away from Malie by Mataafa's people. The principal offender, however, was very carefully left at Malie, and the others were dismissed for want of evidence and returned to Malie.

With the exception of this time the followers of Mataafa at Malie have never submitted to the service upon them of the processes of the supreme court.

The effect of a joint military movement at the present time would be of very little avail. In the first place, three ships are not enough; again, this is the wrong time of the year for ships to be knocking about this group; and, furthermore, any attempt at the present moment to force the natives to submit to the present Government would not only have almost the entire opposition of the white population, but I fear would be the means of strengthening the Mataafa party, and, if a general disarmament was talked of, to perhaps unite the Samoans against foreign aggression.

The using of war ships against these people is a very serious matter, and one which must be gone into after most careful deliberation. It will never do to risk for a moment the minutest chance of a false step; every possible movement and attitude of the Samoans must be cautiously considered, and every precaution taken to checkmate any and every move they might make after operations are begun against them. I thoroughly agree that it is quite impossible to let things remain as they are; they will never completely right themselves.

This Mataafa movement must be stamped out once and for all, thoroughly and completely, and the natives taught that a treaty made with three powers like the United States, England, and Germany means something. What must be considered, is the best way of doing this.

At present there are many pretexts which people can set forth as good reasons for not submitting to the Government and its laws; these, however, have all grown up since Mataafa withdrew from Mulinu; his sole reason for not remaining at the seat of government was that he was not the head.

This is his great ambition in life; he is steadfast in the hope of yet attaining this position, and in it he is constantly encouraged by whites opposed to Malietoa.

Mataafa personally has never been favorable to Malietoa being King, or any one else but himself; he has always considered that position his, and when Malietoa was again recognized as King under the treaty, although he pretended to support him, he and his followers were secretly preparing to revolt, just as they did before under Tamasese's rule.

As long as Mataafa lives he will never give up the idea of being King of Samoa

His following can easily be reduced and no danger to the peace of the country apprehended, but he will always cherish the one everlasting desire to be King.

The principal and primary point, therefore, to be gained is to weaken his support, and the easiest and best mode of accomplishing this is to strengthen the Malietoa Government by the withdrawal of useless and unnecessary officials and appointing a chief justice known to be competent of dealing with a semibarbarous people and qualified as a judge capable of deciding the many and varied questions that must come before him.

\* \* \* \* \*

Mataafa's followers, with the exception of a few who hang close around him for the temporary rank it gives them, being really nothing or nobodies in their own right, are getting very tired of their job, the principal reason being that no results come out of that so-called Government any more than from Mulinu.

My suggestion for the adjustment of the present existing unsatisfactory state of affairs here is, amend the few bad parts in the treaty which have been pointed out at different times; appoint a new chief justice; dispense entirely with the office of president; let the treaty powers send here two ships each, prepared to go to the last extremity if necessary, and then the suggestions of the German Government could be carried out, as the plan of operations laid down by it is a good one, and quite practicable if sufficient force is visible.

I do not apprehend any difficulty in disarming the whole of Samoa, provided the people see some signs of a good and stable Government, but under the present existing farce I should fully expect to see the natives unite and slaughter all white residents sooner than be forced to submit to paying taxes, which all go to officials, and of which not a single cent is spent in any improvements in the country, in any shape whatever.

The act of a disarmament is the first step towards a protectorate, and the three powers will thereby bind themselves to protect Samoans from each other or any outside power. Of course the fact of Samoans being armed would not prevent any power taking the country should it so desire, but disarming them would no doubt lessen the risk of the undertaking.

On the other hand the Samoans require protection against themselves and to take away their rifles would be doing them a good service.

I have, etc.,

W. BLACKLOCK,  
Vice Consul-General.



*Mr. von Holleben to Mr. Foster.*

[Translation.]

IMPERIAL GERMAN LEGATION,  
Washington, January 12, 1893.

MR. SECRETARY OF STATE: As you have perhaps already been informed by the U. S. consul at Apia, the president of the municipality there had declined to submit the statements prepared by him relative to the financial condition of the Samoan Government and the municipal district to the consuls of the three treaty powers. The British Government has consequently proposed that Baron Senfft von Pilsach be obliged by the three governments, through the agency of their consuls, to exhibit the statements in question. The Imperial Government has agreed to this proposition, and has instructed me so to inform the U. S. Government, in the hope that it will send similar instructions to its consul at Apia.

Accept, etc.,

HOLLEBEN.

*Mr. Foster to Mr. von Holleben.*

DEPARTMENT OF STATE,  
Washington, January 17, 1893.

SIR: I have the honor to acknowledge the receipt of your note of the 12th instant, in which you state that your Government has agreed to the proposition made by the British Government that the consuls of the three treaty powers at Apia should instruct Baron Senfft von Pilsach to submit to them a statement of his financial accounts. I had previously received a note from Her Britannic Majesty's minister at this capital, dated the 11th instant, making the same proposal, to which I promptly acceded. A copy of Sir Julian's note and of my reply thereto,\* the 14th instant, I have the honor to send herewith.

Accept, sir, etc.,

JOHN W. FOSTER.

*Mr. Foster to Mr. von Holleben.*

DEPARTMENT OF STATE,  
Washington, January 19, 1893.

DEAR MR. MINISTER: Confirming our interview of to-day, I now hand you the promised memorandum respecting the resignation of Mr. de Cedereranz.

With sentiments of the highest esteem, I am, etc.,

JOHN W. FOSTER.

The British minister has stated to Secretary Foster that Her Majesty's minister at Stockholm has information that M. de Cedereranz is desirous of resigning, and Sir Julian, in this connection, has an intimation that it would probably be more courteous to His Majesty, the King of Sweden and Norway, and also more expeditious, if a

\* Printed under Correspondence with British Embassy.



joint or concurrent representation on the part of the ministers of the three powers should be made to the King that the resignation would be accepted; and further, that the expenses of M. de Cedereranz's return journey would be paid. Upon such representation being made, possibly the Swedish Government would telegraph M. de Cedereranz to that effect.

Mr. Foster heartily concurs in this course and will instruct the United States minister at Stockholm to cooperate with his colleagues if such a course is approved by Germany and Great Britain.

*Mr. Foster to Mr. von Holleben.*

DEPARTMENT OF STATE,  
*Washington, February 6, 1893.*

SIR: With reference to Baron Ketteler's note of November 15 and my reply of the 18th of that month relative to the proposed administrative changes in Samoa, I now have the honor to inform you that I have received a note from Her Britannic Majesty's minister at this capital dated the 26th ultimo, in which he states that—

Her Majesty's Government know of no present objection to the proposed selection of Mr. Ide as chief justice.

He adds, however, with reference to the appointment of Mr. Hennings, as president of the municipal council, that his Government "must await a dispatch from Her Majesty's high commissioner for the Western Pacific before coming to a final decision."

The three governments would seem, therefore, to be in accord with reference to the appointment of Mr. Ide as chief justice and it is hoped that they may be able to equally agree with respect to a successor to Baron Senfft von Pilsach.

Accept, sir, etc.,

JOHN W. FOSTER.

*Memorandum.*

IMPERIAL GERMAN LEGATION,  
*Washington, February 24, 1893.*

As already verbally stated on the 16th of this month to the Hon. John W. Foster, this legation has received telegraphic instructions from the foreign office to inform the United States Government that in consequence of the final decision of Her Britannic Majesty's Government not to accede to the proposed appointment of Mr. Hennings as president of the municipal council in Apia, the Imperial Government consider their suggestions for the simultaneous appointment of the two candidates for the post of chief justice and president of the municipal council in Apia, as expressed in a note addressed to the honorable the Secretary of State by this legation under date of November 15, 1892, to be now revoked and cancelled.

The Imperial Government intends, however, shortly to make new suggestions for the appointment of candidates for both offices pertaining to the administration of the Samoan Government.

*Mr. Wharton to Mr. Von Holleben.*

DEPARTMENT OF STATE,  
*Washington, March 3, 1893.*

SIR: The memorandum of the Imperial German legation in regard to contemplated administrative changes in Samoa, which was handed to me by Baron von Ketteler under date of the 24th ultimo, has had my consideration in light of a subsequent communication from her Britannic Majesty's minister conveying the dissent of the British Government from the appointment of Mr. Hennings as president of the municipal council of Apia, in place of Baron Senfft von Pilsach.

The withdrawal of the suggestion of your Government relative to the simultaneous appointment of Mr. Ide as chief justice of Samoa leaves the matter as it stood at first, except so far as it has served to develop the coincident conviction of the three governments that a change in the two high administrative offices is expedient and subject to the new suggestions which the Imperial Government purposes shortly to make for the appointment of candidates for both offices.

While awaiting further proposals in this regard, I beg to suggest that, inasmuch, as Mr. Ide's appointment, spontaneously brought forward by Germany, has already received the cordial approval of the three governments, and as the Government of the United States has no candidate in view at this time to succeed Baron Senfft, the selection of a substitute may be left in the first instance to the German and British governments, in the supposition that an agreement between them in regard to the president of the municipal council would in all probability be coupled with the renewed presentation of Mr. Ide's name for the chief justiceship. But in any event this Government holds itself free to act upon both nominations or to suggest new candidates should occasion require.

Accept, sir, etc.,

WILLIAM F. WHARTON.

*Mr. von Holleben to Mr. Gresham.*

[Translation.]

IMPERIAL GERMAN LEGATION,  
*Washington, April 10, 1893.*

MR. SECRETARY OF STATE: Your excellency is aware that it has thus far been impossible to bring about a settlement of the financial difficulties on the Samoan Islands.

This fact is due in the opinion of the Imperial Government, on the one hand to the unskillful management of the officers there, and on the other chiefly to the lack that has hitherto existed of the necessary power to compel the natives to continue to pay the capitation tax which, according to the provisions of the Samoa act, they are bound to pay.

There is, moreover, considerable doubt as to how the customs revenues should be divided between the municipality of Apia and the Samoan Government, to which the note of Mr. Foster, late Secretary of State of the United States (bearing date of November 22, 1892), referred at some length,

It is evident that such a state of things is very detrimental to the interests of foreign settlers in Samoa. In view of this fact, the Imperial consul at Apia was instructed, some time since, to offer some suggestions with regard to a remedy for the existing undesirable conditions. These suggestions are embodied in the report from Apia of January 27, 1893, a copy of which is herewith inclosed, and have, it appears, met with the approval of the American and British consular representatives there.

According to this, when the native taxes are not collected to a sufficient amount, the Samoan Government should receive one-third of the customs revenues; the municipality should have charge of the administration of the customs, while the administration of the finances should be subjected to a proper supervision.

In the opinion of the Imperial Government, these suggestions are well adapted to the circumstances. Should they be adopted, the salary of the chief justice should be paid in future, from the local revenues, whereas it appears from the inclosed copy of the report of the Imperial Consul at Apia, dated January 25, 1893, that, as matters now stand, there will probably soon be no funds available for its payment.

I therefore have the honor, in obedience to instructions received, to most respectfully beg your excellency to inform me whether the United States Government is prepared to instruct its consul at Apia to enter into negotiations with the German and British representatives for the provisional settlement of the financial difficulties in Samoa on the basis of the suggestions which have been made, and to authorize him to take suitable steps, conjointly with his two colleagues, to secure the execution of the resolutions adopted by them.

As regards the remarks contained in the report dated January 27, 1893, of the Imperial consul at Apia (sub No. 2) concerning the necessity of the presence of a larger naval force, I may embrace this opportunity to point to the fact that those remarks demonstrate the correctness of the position hitherto taken by the Imperial Government in this matter, which was fully stated in the notes of this legation of October 15 and 24, 1892.

The Imperial Government will probably again advert at a suitable time, to the suggestions that have already been made by it on this subject, in the hope that the said suggestions may be viewed with greater favor by the United States Government.

Accept, Mr. Secretary of State, etc.,

HOLLEBEN.

### *Memorandum.*

IMPERIAL GERMAN LEGATION,  
Washington, May 3, 1893.

According to telegraphic advice just received from the foreign office at Berlin the president of the municipal council in Samoa, Baron Senfft von Pilsach, has applied for permission—which is to be communicated to him by telegraph—to leave Apia at once, on account of the illness of his wife.

The Imperial Government is prepared to grant his request, and at the same time to discharge him of his duties.

It will be remembered that Baron Senfft von Pilsach has repeatedly resigned his office.

If the United States Government agree to this procedure the Imperial Government would suggest that the three consuls of the treaty powers



should meanwhile conjointly take charge of the office of the president of the municipality, while proposals for the appointment of another such official will be made shortly.

This legation begs to request an answer stating the view taken by the Department of State with regard to this question, and would request to be kindly informed if the United States consul in Apia will be instructed accordingly by telegraph.

*Mr. Gresham to Mr. von Holleben.*

[Personal.]

DEPARTMENT OF STATE,  
Washington, May 3, 1893.

MY DEAR SIR: Referring to Baron Ketteler's conversation with Mr. Adeo of to-day, I beg to inclose a memorandum in relation to the resignation of Baron Senfft von Pilsach as president of the municipal council in Samoa.

Very truly, yours,

W. Q. GRESHAM.

[Inclosure.]

*Memorandum.*

In view of the statements contained in the memorandum of the Imperial German legation, dated May 3, 1893, and of the attitude this Government has heretofore taken in respect to the repeated tender of the resignation of Baron Senfft von Pilsach, as president of the municipal council in Samoa, the Secretary of State is pleased to express the occurrence of his Government in the suggestion of the Imperial German Government that Baron Senfft von Pilsach be granted leave of absence as he requests, and be at the same time relieved of his duties as president of the council.

Pending the appointment of a new president of the council, which it is hoped may be speedily effected, the Government of the United States is willing that the three consuls of the treaty powers should conjointly intervene to perform such administrative acts as under the general act of Berlin are to be done by the president of the municipal council.

The acting consul of the United States in Samoa will be instructed accordingly by telegraph via Auckland.

Department of State, Washington, May 3, 1893.

*Mr. Gresham to Mr. von Holleben.*

DEPARTMENT OF STATE,  
Washington, May 8, 1893.

SIR: This Government is advised, by a dispatch received from the United States minister at Stockholm, that His Majesty the King of Sweden and Norway, by whom and at the request of the three signatories of the Samoan general act, Mr. Cedererantz was named chief justice of Samoa, has now the intention of granting the request of Mr. Cedererantz to be permitted to resign his office and return to Europe on the ground of ill health. Before doing so, however, His Majesty desires to learn the views of the signatory powers touching the precise date when Mr. Cedererantz may be permitted to quit his post, having regard to the interests

of the service and the means of communication with the Samoan Islands.

The readiness of the Government of the United States to accept Mr. Cedererantz's resignation of the Samoan chief justiceship has been heretofore made known to the other signatories; and I have the honor to add that this Government is disposed to give effect to his present tender of resignation at as early a day as may be convenient.

In view, however, of the fact that the three signatories are considering the question of the immediate withdrawal of Baron Senfft von Piltsch, the president of the municipal council of Samoa, with every prospect of agreement upon the German proposal to entrust for the time being the administrative functions of the presidency of the municipal council to the consular representatives of the three powers acting jointly, the expediency or even feasibility of likewise temporarily intrusting to the three consuls the judicial functions and powers of the chief justiceship may be seriously doubted. To do so would, it is thought, be an impracticable expansion of the intent of the provision of Article III of the general Samoan act, prescribing that "The powers of the chief justice, in case of a vacancy of that office from any cause, shall be exercised by the president of the municipal council until a successor shall be duly appointed and qualified."

This Government would be indisposed to devolve, by substitution, upon the three consuls acting jointly, the complex and delicate judicial powers pertaining to the chief justice.

It would seem that the appointment and qualification of Judge Cedererantz's successor should, if possible, coincide with his retirement, that no interruption of the due course of justice in Samoa shall occur. Any proposal to this end will have my earnest and speedy attention.

I have the honor to request an early communication of the views of your Government in this regard, so that an answer may be returned to His Majesty's inquiry.

Accept, etc.,

W. Q. GRESHAM.

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### *Memorandum.*

GERMAN LEGATION,  
*Washington, May 10, 1893.*

In a note dated November 22, 1892, the Hon. John W. Foster, then Secretary of State, informed this legation that the United States Government agreed with the Imperial Government and with the Government of Great Britain that the opinion of the chief justice of Samoa with respect to the apportionment of the Samoan customs duties "was not rendered in the line of the duty of the court or in accordance with the terms of the treaty and that being extrajudicial it ought to be treated as a nullity." It was further stated that "the Government of the United States would be pleased to join in any concurrent communication of this view to the chief justice or other officials of Samoa as might be deemed most expedient."

These views have been duly transmitted to the foreign office at Berlin, and in reply thereto the Imperial Government, having previously obtained the consent of the Government of Great Britain, would now suggest that the treaty powers inform the chief justice of Samoa by

telegraph that his opinion with regard to the apportionment of the customs revenues has not been accepted and, that he is instructed to consult with the three consuls of the treaty powers in order to bring about an understanding on the basis of the agreement of the three consuls, the particulars of which were related in this legation's note addressed to the Hon. W. Q. Gresham under April 10, and especially in the annexed report of the Imperial German Consul, Mr. Biermann, of January 27, 1893.

The three consuls would furthermore have to be instructed accordingly. The British Government having already consented to such procedure this legation begs to be informed of the decision of the United States Government with regard to the proposed telegraphic instructions to the chief justice and to the United States consul at Apia.

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*Mr. Gresham to Mr. von Holleben.*

DEPARTMENT OF STATE,  
Washington, May 11, 1893.

The Secretary of State presents his compliments to the minister of Germany, and asks that he will kindly call at the Department to-day at 3 o'clock for the purpose of discussing a detail in relation to Samoan matters.

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*Mr. Adee to Mr. von Holleben.*

[Personal.]

MAY 12, 1893.

MY DEAR MR. VON HOLLEBEN: Since I spoke to you this morning about the extension of the term of the Samoan land commission, a dispatch has been received from our minister at Berlin, by which it appears that the Imperial Government would consider it advisable (*zweckmässig*) to make such prolongation for the period of one year, so that the commission, which began its labors on May 30, 1891, would be required to complete them at the latest by the end of May, 1894.

In view of this, your telegram might perhaps take the form of an inquiry whether you are authorized to close an understanding for one year's extension of the Samoan land commission when Sir Julian shall have learned the assent of the British Government to the proposal.

The appointment of a new United States commissioner could then, as I explained to you this morning, be at once made in order that Mr. Ormsbee's resignation may not disturb the speedy resumption of the labors of the commission.

I am, etc.,

ALVEY A. ADEE.



*Mr. Gresham to Mr. von Holleben.*

DEPARTMENT OF STATE,  
Washington, May 12, 1893.

MY DEAR MR. VON HOLLEBEN: I inclose herewith a memorandum in relation to the allotment of the customs revenues of Samoa.

Very truly yours,

W. Q. GRESHAM.

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*Memorandum.*

The memorandum of the German legation, of May 10, 1893, on the subject of the allotment of the customs revenues of Samoa, has been considered, in the light of the suggestions contained in the report of the German consul at Apia, dated January 27, 1893. Suggestions in a similar sense have been received from the acting consul-general of the United States, under date of January 28, 1893.

Conformably with the agreement of the three powers upon the general propositions stated in the Department's note of November 22, 1892, and accepting the suggestions of Dr. von Holleben's present memorandum, this Government will forthwith send, by way of Auckland, a telegraphic instruction to the chief justice of Samoa that his opinion touching the allotment of the customs revenues is not accepted, and that he will concert with the consular representatives of the three powers to effect the understanding reached by them in this regard as reported in January last.

A confirmatory telegram in the same sense will be dispatched to Acting Consul-General Blacklock.

Department of State, Washington, May 12, 1893.

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*Mr. von Holleben to Mr. Gresham.*

IMPERIAL GERMAN LEGATION,  
Washington, May 15, 1893.

SIR: In pursuance of telegraphic instructions received from the secretary of state for foreign affairs at Berlin, in reply to the proposal made by the United States Government with regard to the extension of the term of the Samoan land commission, which I duly transmitted to my Government on the 12th of this month, I have now the honor to inform you that the Imperial Government had likewise considered it desirable to make such prolongation of the labors of the commission for the period of one year from the 1st of June, i. e., up to June 1, 1894.

Such proposal having been communicated to the Government of Great Britain, the British Government has replied that a prolongation of the term up to March 31 of this year seemed sufficient.

The imperial secretary of state has consented thereto and has lost no time in informing the Hon. W. W. Phelps, U. S. minister at Berlin, of the acceptance of this altered proposal.

I avail, etc.,

HOLLEBEN.

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*Mr. Gresham to Mr. von Holleben.*

DEPARTMENT OF STATE,  
Washington, May 17, 1893.

SIR: I have the honor to acknowledge receipt of your note of the 15th instant, in relation to the extension of the term of the Samoan land commission.

The proposition as modified by the concurrence of your Government and that of Great Britain, to extend the term of the commission to March 31, 1894, is accepted by the Government of the United States.  
Accept, sir, etc.,

W. Q. GRESHAM.

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*Memorandum.*

The foreign office at Berlin has recently received a telegram from the imperial consul in Apia reporting that in consequence of the nonappearance of foreign ships of war in the harbor of Apia, the King Malietoa now intended to begin hostilities against Mataafa.

The consul further states that such possible warlike action largely increases the danger to which the plantations, as well as the life and other property of the white population, have already been long exposed, and for which lately more serious apprehensions have been felt than ever before.

There is at present one cruiser belonging to the imperial navy in Samoan waters, and another such man-of-war will be stationed there by the beginning of next month.

This legation has been instructed to bring these facts to the knowledge of the Department of State, and to ascertain the views held by the U. S. Government with regard to the question of intended action in Samoan waters.

Imperial German legation, Washington, June 13th, 1893.

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*Mr. Gresham to Mr. von Holleben.*

DEPARTMENT OF STATE,  
*Washington, June 19, 1893.*

**SIR:** Having given due consideration to the important memorandum of your legation, dated June 13 and delivered at this Department the same day, in relation to the existing critical state of affairs in the Samoan Islands, by reason of the defiant attitude of the disaffected partisans of Mataafa and the apprehended disturbance of the peace and peril to foreign interests in those islands should King Malietoa attempt the forcible assertion of his sovereignty over them, I have the honor to transmit herewith a counter memorandum expressing the views of this Government touching its duty under the general act of Berlin, and the steps proposed to be taken by the United States toward the sole purposes of upholding the authority of the Government which it united with Germany and Great Britain to establish in Samoa, and averting bloodshed.

A copy of the inclosed memorandum will be simultaneously communicated to your colleague, the British ambassador, for the information of Her Majesty's Government.

Accept, etc.,

W. Q. GRESHAM.

*Memorandum.*

The memorandum of the Imperial German legation, dated June 13, 1893, recites the receipt of advices from the imperial consul at Apia to the effect that in the absence of war vessels of the three treaty powers, King Malietoa now proposes to begin hostilities against Mataafa, which action it is stated is calculated to endanger foreign life and property. The Imperial Government, having now one cruiser in Samoan waters, purposes having another there by the beginning of next month. In consequence of this situation the views of this Government are solicited with regard to the question of intended action in Samoan waters.

The Government of the United States, recognizing the obligation assumed and equally shared with the two other treaty powers in consequence of the general act of Berlin, to use all moral and, if need be, material force for the maintenance of the system of government which they have joined in establishing in the Samoan Islands will, in the interest of peace and to avert bloodshed, unite with Germany and Great Britain in aiding the recognized King, Malietoa Laupepa, to enforce his authority throughout those islands, and to execute the provisions of the general act in regard to the administration and revenues of the islands.

To this end the Government of the United States will forthwith dispatch one, and if need be, two naval vessels to Samoa, with instructions to the commanding officer to concert with the commanders of the like naval forces of Germany and Great Britain present in those waters with a view to landing an adequate force of the three powers in order to surround Mataafa and his adherents and disarm them, thus constraining their obedience to the established Government and effectively carrying out the intent of the treaty.

As the present purpose contemplates assisting the recognized King in maintaining sovereignty over the islands, it is deemed proper that its execution be left to the discretion of the three chief naval commanders acting jointly.

Department of State, Washington, June 19, 1893.

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*Memorandum.*

Having communicated the contents of the Department's note of the 19th instant as well as of the annexed memorandum concerning the naval action in Samoa to the imperial foreign office at Berlin by telegraph, this legation has been in the same way instructed to state in reply, that the Imperial Government agree with the proposal of joint military action in order to disarm Mataafa and his adherents.

The Imperial Government will for the present leave the two cruisers belonging to the imperial navy in the harbor of Apia, and regard the dispatch of a like number of United States war vessels as most desirable.

The details of the action to be taken by the naval forces ought, in the opinion of the Imperial Government, be left to the discretion of the senior commanders who would eventually consult with the consular representatives at Apia.

The Imperial Government do not consider the proposed deliberation of the details of such action by their representative at Washington to be either essential or expedient.

Imperial German legation, Washington, June 22, 1893.



*Mr. von Holleben to Mr. Gresham.*

[Translation.]

IMPERIAL GERMAN LEGATION,  
Washington, July 8, 1893.

MR. SECRETARY OF STATE: Referring to the note of the Hon. William F. Wharton, acting Secretary of State, of the 3d of March last, I have the honor to make the following communication to your excellency relative to the appointment of a new chief justice and a new president of the municipal council at Apia.

Since the British Government has disapproved of the appointment of Mr. Hennings, the candidate proposed by the Imperial Government for the office of president of the municipality of Apia, and since Lord Rosebery has suggested to us the appointment of another candidate, the Imperial Government has endeavored to find a suitable incumbent for that position, and thinks that it has found one in the person of Mr. Schmidt, formerly vice-consul at Apia, who is probably already known to the United States Government from the reports of its representatives at Apia. Having resided on the Samoan Islands for a number of years, he has a knowledge of affairs there, and also of the Samoan language. He has always succeeded in maintaining a good understanding with all classes of both the native and foreign population. If Mr. Schmidt should be appointed to the office in question, he would resign his position in the imperial service, and he is prepared to enter upon the discharge of his new duties on the same terms as did Baron Senfft von Pilsach, who has hitherto been president. The Imperial Government feels confident, in view of the qualities which he possesses, and of the experience which he has had, that he will reestablish a well-ordered administration in Samoa, and that, in the discharge of his official duties, he will be influenced solely by the principles of justice and right.

As appears from the aforesaid note of the State Department of March 3, 1893, the United States Government entertained the wish that, as regarded the successor of Baron Senfft von Pilsach, president of the municipal council, an understanding might be reached between the cabinet of Berlin and that of London, in the hope that the candidacy of Mr. Ide for the position of chief justice might still be maintained.

The British Government, having previously declared that it approved the appointment of Mr. Ide as chief justice, has now stated that it will not oppose the appointment of Vice-Consul Schmidt as president of the municipal council.

I consequently have the honor, in pursuance of instructions received from the Imperial Government, hereby to propose to that of the United States of America the appointment of Mr. Ide as chief justice and that of Mr. Schmidt as president of the municipal council.

Should the U. S. Government accept these proposals, as is to be hoped that it may, it would, in the opinion of the Imperial Government, be well, as was suggested in your excellency's note of the 8th of May last, to send instructions by telegraph to its representative at Stockholm, to the end that he, conjointly with the German and English representatives, might take proper steps to secure the recall of Mr. Cederkrantz. We assume that Mr. Cederkrantz will remain at his post until the arrival of his successor. It would, therefore, be well to inform the Swedish Government at about what time Mr. Ide would probably be able to reach Apia and to enter upon the discharge of his duties.

In the opinion of the Imperial Government, Mr. Cederkrantz and

Baron Senfft von Pilsach should receive the salaries attached to their respective offices until the day on which they cease to perform their functions at Apia. It is, however, doubtful whether the Samoan Government will have a sufficient amount of money at its disposal for this purpose. With regard to the salary of the chief justice, the treaty powers are bound by Article III, section 2 of the Samoa act to pay any deficiency therein. As to the salary of the president of the municipality, no such obligation exists. The Imperial Government is, however, of the opinion that it would be an unreasonable hardship for that officer if, owing to the insufficiency of the funds available, he should not receive the full amount of the salary provided as his compensation for performing the duties of the office to which he was appointed by the common consent of the treaty powers, and should thus suffer loss. It thinks, therefore, that it will be incumbent upon the governments to make good any deficiency in the salary of the president of the municipality, with the proviso that the amount thus paid shall hereafter be deducted from the revenues of the Samoan Government, which, under a proper administration of that Government, such as is expected from Mr. Schmidt, will suffice both for this purpose and for the future payments of the salary of the president of the municipality, so that no intervention of the powers will hereafter be necessary to secure the payment of that officer's salary.

The Imperial Government further think that it would be proper to pay the expenses of the homeward journey of the retiring officers, together with those of the removal of their residence, although this was not expressly promised to them when they were appointed. A gross sum of \$1,500 would seem to be the amount proper to be paid to each officer for this purpose.

The British Government has already approved these financial measures proposed by the Imperial Government, provided that they meet the approval of the American Government.

If, as I hereby have the honor to propose, the United States Government should also approve said measures, the consuls at Apia would have to be authorized to pay the sums in question to Mr. Cederkrantz and Baron Senfft von Pilsach, or his legal representative, each consul paying one-third of the whole amount.

I consequently take the liberty to request a speedy decision with regard to the candidates proposed by the Imperial Government and also with regard to the financial measures connected with the resignation of the present incumbents of the offices in question, and to apprise me, as soon as possible, of the result, so that I may inform my Government by telegraph.

I avail, etc.,

HOLLEBEN.

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*Mr. Adee to Baron von Ketteler.*

DEPARTMENT OF STATE,  
Washington, August 1, 1893.

SIR: In connection with previous correspondence upon the subject I have now the honor to state that Mr. Henry C. Ide of Vermont, has expressed to the Department his willingness to accept the appointment of chief justice of Samoa tendered him by the governments of Germany, Great Britain, and the United States, and his appreciation of the honor thereby conferred.

Mr. Ide adds that it will be impossible for him to make his arrangements to leave for his post earlier than October 20 next, when, it is understood, the steamer sails from San Francisco. He suggests that provision be made by the three powers for the expense of removing himself and family to Samoa.

This Government will bear its pro rata share of that expense, and in view of the reasonableness of Mr. Ide's request in this respect, it is not doubted that Germany and Great Britain will assume their proportionate shares.

Mr. Ide also hopes that a leave of two months in each year may be agreed upon by the three powers, in view of the fact that in that tropical climate it is difficult for a white man to continue strong without reasonable annual change.

In my letter to Mr. Ide of to-day's date I have stated that there did not seem to be need of express stipulations for an annual leave, since it would no doubt be granted upon timely application.

A note in this sense has been addressed to his excellency, Sir Julian Pauncefote, G. C. B., G. C. M. G., Her Britannic Majesty's ambassador, for the information of Her Majesty's Government.

Accept, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

*Mr. Gresham to Baron Ketteler.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, August 3, 1893.*

Referring to Mr. Adees's note of August 1, regarding appointment of Mr. Ide as chief justice of Samoa, I beg to refer also to your legation's note of July 8, and to say that this Government concurs in the appointment of Mr. Schmidt as president of council.

W. Q. GRESHAM.

*Baron Ketteler to Mr. Adce.*

[Telegram.]

ELBERON, N. J., *August 3, 1893.*

As the Department's note of 1st August contains no reference to Mr. Schmidt's appointment may I ask for an early reply with regard thereto?

KETTELER.

*Baron Ketteler to Mr. Gresham.*

IMPERIAL GERMAN LEGATION,  
*Washington, August 8, 1893.*

SIR: In accordance with telegraphic instructions received from the secretary of state for foreign affairs, I have the honor to inform you that the foreign office at Berlin is in receipt of telegraphic advice from



the imperial consul at Apia to the effect that Mataafa and his followers have been utterly defeated by King Malietoa, the loss on Mataafa's side amounting to 15 killed and 18 wounded.

By a joint action of the two cruisers of the imperial navy, together with a British man-of-war and some 30 native chieftains, Mataafa and his followers were made prisoners of war without any bloodshed.

In communicating these facts to the U. S. Government the secretary of state for foreign affairs has directed me to add that it was deemed impossible to delay the joint action of the war ships in Samoan waters any longer after the native forces had engaged in deadly warfare, and that the respective naval commanders have acted in accordance with the spirit of the agreement entered into by the three powers, by their timely interference and by restoring peace and good order within the Samoan Islands.

I avail, etc.,

KETTELER.

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*Mr. Gresham to Baron Ketteler.*

DEPARTMENT OF STATE,  
Washington, August 9, 1893.

SIR: We have received a telegram from Mr. Blacklock, our vice-consul-general at Apia, Samoa, stating that Mataafa and his chiefs have surrendered and are prisoners on board the British and German war ships; that the war is virtually over; that the consuls await instructions from the three treaty powers as to the disposition to be made of Mataafa, and that his life was guaranteed previous to his surrender.

The U. S. S. *Philadelphia* reached Callao yesterday, where she will remain until further orders are dispatched to her.

The President would be pleased to know what action on the part of the three treaty powers is demanded by the present situation at Samoa, and especially what disposition your Government thinks should be made of Mataafa.

It now seems unnecessary that the *Philadelphia* should proceed to Samoa, and she will be ordered elsewhere, unless Germany and England, for some good reason, think her presence is necessary in Samoan waters.

A similar note has been addressed to the British ambassador.

Accept, etc.,

W. Q. GRESHAM.

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*Mr. Gresham to Baron Ketteler.*

DEPARTMENT OF STATE,  
Washington, August 10, 1893.

SIR: I have the honor to acknowledge the receipt of your note of the 8th instant, in which you inform me, in compliance with telegraphic instructions sent to you, of the report of the imperial consul at Apia, to the effect that Mataafa and his followers, having been utterly defeated by King Malietoa with a loss of 15 killed and 18 wounded, were subsequently made prisoners, without further bloodshed, by the joint action of the German and British cruisers in Samoan waters.

I fully appreciate the grave emergency which, upon the precipitation of hostilities between the royal forces and the disaffected faction in Samoa, constrained the naval representatives of Germany and Great Britain to take immediate action without awaiting the arrival of the United States war vessel then under way to those islands in pursuance of the agreement previously reached between the three treaty powers; and I am pleased to believe that the action so taken by the German and British naval commanders was in accordance with the understanding of the three powers with regard to the restoration of peace and good order in the Samoan Islands by efficient cooperation to uphold the authority of the recognized King.

Accept, etc.,

W. Q. GRESHAM.

*Mr. Gresham to Baron Ketteler.*

DEPARTMENT OF STATE,  
Washington, August 10, 1893.

SIR: I have the honor to acknowledge the receipt of Mr. von Holleben's note of the 8th ultimo in regard to the appointment of Mr. Schmidt, lately vice-consul of Germany at Apia, as president of the municipal council.

In confirmation of my telegram of the 3d instant, it gives me pleasure to state that this Government cordially concurs in this appointment and that a note in this sense has been addressed to the British ambassador.

The other questions presented in your note shall have attentive consideration.

Accept, etc.,

W. Q. GRESHAM.

*Baron Ketteler to Mr. Gresham.*

IMPERIAL GERMAN LEGATION,  
Washington, August 17, 1893.

MR. SECRETARY OF STATE: I have the honor to acknowledge the receipt of your excellency's note of the 9th instant, expressing the wish of the President of the United States to be informed what further measures the Imperial Government proposes to take with regard to affairs in Samoa, and, especially, what it purposes to do with regard to Mataafa's future.

I communicated the contents of the said note immediately by telegraph to the Imperial Government, and have now been instructed by the chancellor of the Empire to state that according to the contents of a telegram received from the imperial consul at Apia, Mataafa and eleven of the ringleaders belonging to his party, in accordance with an agreement concluded between the three consuls of the treaty powers and the commanders of the war vessels stationed at Apia, have been deported to the Union Islands.

This step appears to the Imperial Government an expedient one, as it considers it absolutely necessary, in the interests of quiet and order, to keep Mataafa and the leading individuals of his party at a distance from Samoa.

In view of the present state of affairs, the dispatch of the U. S. war ship *Philadelphia*, at present at Callao, appears to the Imperial Government to be no longer necessary.

In communicating the foregoing to your excellency, in accordance with my instructions,  
I avail, etc.,

KETTELER.

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*Baron Ketteler to Mr. Gresham.*

[Telegram.]

NEW YORK, *August 17, 1893.*

In reply to your inquiry, I am instructed to state that the Imperial Government, in view of the peaceful situation at Apia, do not consider the dispatch of U. S. S. *Philadelphia* to Samoa to be of any further necessity. An official answer to your note will be forwarded to-day.

KETTELER.

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*Mr. Gresham to Baron von Ketteler.*

DEPARTMENT OF STATE,  
*Washington, August 17, 1893.*

SIR: I have the honor to acknowledge the receipt of your telegram of the 17th instant, in which you state that, in view of the peaceful situation at Apia, the Imperial German Government does not consider it necessary to send the U. S. S. *Philadelphia*, at present en route to Samoa, to that point.

Accept, sir, etc.,

W. Q. GRESHAM.

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*Baron Ketteler to Mr. Gresham.*

IMPERIAL GERMAN LEGATION,  
*Washington, August 21, 1893.*

SIR: With reference to my note of the 17th of this month, I have the honor to inform you that I have recently received telegraphic advices from the foreign office at Berlin to the effect that Her Britannic Majesty's Government had proposed to the Imperial Government to deport the Samoan rebel Mataafa as well as eleven other native chiefs who were captured at the same time by the joint action of the German and British war vessels, to one of the islands belonging to the German Possessions in the South Pacific Ocean and to divide the expenses incurred by such detention between the three treaty powers.

The Imperial Government is prepared to assent to this proposal, and has proposed Jaluit, the residence of the imperial commissioner for the Marshall Islands, as a proper and well-adapted place for the detention of Mataafa and his rebel chiefs.

I have therefore been instructed to communicate on this subject with the Department of State and to request the consent of the U. S. Government to the contemplated measure with regard to Mataafa's destiny.



Having been informed by Her Britannic Majesty's ambassador at this capital that he has already communicated to you, both by telegram and by note, the concurrence of the British Government in the proposed arrangements, I beg to express the hope, on behalf of the Imperial Government, that the proposal with regard to Mataafa will likewise meet with the approval of the U S. Government.

While requesting the favor of an early reply,

I avail, etc.,

KETTELER.

*Baron Ketteler to Mr. Gresham.*

[Telegram.]

NEW YORK, August 24, 1893.

Received instructions to represent to Department desirability of early presence of American member of land commission in Samoa in order to avoid further prolongation of term.

KETTELER.

*Mr. Gresham to Baron Saurma.*

DEPARTMENT OF STATE,

Washington, August 31, 1893.

EXCELLENCY: I have the honor to acknowledge the receipt of Mr. von Holleben's note of July 8, 1893, concerning Samoan matters. In this connection I advert to the Department's notes of the 1st and 10th instants, the former relating to the appointment of Mr. Henry C. Ide as chief justice of Samoa, vice Mr. Cedererantz, and the latter to the appointment of Mr. Schmidt as president of the municipal council at Apia, vice Baron Senfft von Pilsach.

In addition to the foregoing I find Mr. von Holleben's note presents for my consideration other matters, which I shall now dispose of in accordance with the promise made in my note of August 10.

Mr. von Holleben suggests, with regard to the appointment of Mr. Ide, that telegraphic instructions be sent to the minister of the United States at Stockholm, to the end that "he, conjointly with the German and English representatives, might take proper steps to secure the recall of Mr. Cedererantz," who, he further adds, will, in all probability, remain at his post until the arrival of his successor.

I shall adopt this course and shall cause the Government of Sweden to be advised, as Mr. Adey, in his note of the 1st instant, stated, that Mr. Ide proposes to depart for his post by the steamer leaving San Francisco October 20, 1893. He will proceed directly to Samoa, reaching Apia, in all probability, about the middle of November.

The suggestion of the Imperial German Government that Mr. Cedererantz and Baron Senfft von Pilsach should receive the salaries of their respective offices up to the time of their being actually relieved by their successors has my concurrence, provided it receives the sanction of Her Britannic Majesty's Government.

In this relation your Government expresses doubt as to there being sufficient money belonging to the Samoan Government to discharge these obligations, and cites the provisions of the general act (Article

III, section 2) which oblige the treaty powers to make good any deficiency in the salary of the chief justice. No such obligation exists, Mr. von Holleben states, touching the salary of the president of the municipal council, but the German Government thinks it would be an unreasonable hardship for that officer, because of the insufficiency of the funds of Samoa available for the purpose, not to receive the full amount of his compensation. Hence the suggestion that it is incumbent upon the three treaty powers, by whom he was appointed to make good any deficiency; provided, however, that the amount "shall hereafter be deducted from the revenues of the Samoan Government," which your Government believes will be ample to meet all legitimate expenses under capable management such as is anticipated from Mr. Schmidt's administration.

If this course meets the approval of the British Government, it has the assent of that of the United States; and I can only express the hope that the revenues of Samoa may be so wisely managed that the expenses prescribed in the general act may be met therefrom.

"The Imperial Government," says Mr. von Holleben, "further thinks it would be proper to pay the expenses of the homeward journey of the returning officers, together with those of the removal of their residence, although this was not expressly promised to them when they were appointed."

Accordingly a lump sum of \$1,500 is suggested to be paid to each on that account, and it is stated that these financial proposals of the Imperial Government are agreeable to the British Government in case they meet the approval of the United States.

The share of this Government towards the homeward transit of Mr. Cedercrantz and Baron Senfft von Pilsach, based upon the payment to each of \$1,500, will be \$1,000 for the two, and I shall instruct the consular representative of the United States at Apia that, whenever he is advised by his colleagues of Germany and Great Britain that they have been authorized to pay over to Mr. Cedercrantz and Baron von Pilsach, or the latter's legal representatives, a like sum on account of the homeward transit, to draw upon the Secretary of State for the one thousand dollars necessary to pay the share of this Government on that account.

In this connection I wish to advert to Mr. Adee's note of the 1st instant, wherein it was stated that, in compliance with the request of Mr. Ide, provision should be made by the three powers for the payment of the actual expenses of removing himself and family to Samoa. It was also added that this Government would bear its pro rata share.

I shall be glad to learn the decision of His Imperial Majesty's Government as to this proposition, in order that I may communicate it to Mr. Ide at his home in Vermont, so that he may be governed accordingly.

Accept, etc.,

W. Q. GRESHAM.

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*Mr. Gresham to Baron Saurma.*

DEPARTMENT OF STATE,  
Washington, September 6, 1893.

EXCELLENCY: I have the honor to acknowledge the receipt of Baron Ketteler's two notes, dated the 17th and 21st ultimo, respectively, with regard to affairs in Samoa.

In the former it is stated that Mataafa and eleven of the ringleaders belonging to his party, in accordance with an agreement concluded between the three consuls of the treaty powers and the commanders of the war vessels stationed at Apia, have been deported to the Union Islands. In the latter it is suggested, in view of a proposal from Her Britannic Majesty's Government that Mataafa and his eleven followers be transferred to one of the islands belonging to the German possessions in the South Pacific, that Juliut, one of the Marshall Islands, where the imperial commissioner resides, is a proper and well adapted place for the detention of Mataafa and his rebel chiefs.

The Government of the United States assents to this arrangement as well as to the further suggestion that the expenses of the maintenance of these chiefs be divided among the three powers.

In this connection I shall be pleased to be advised of the probable expense to be so entailed.

In view of this condition of affairs at Apia, I note the statement of the Imperial Government that the dispatch of the U. S. S. *Philadelphia* appears to be no longer necessary.

Accept, etc.,

W. Q. GRESHAM.

*Memorandum.*

IMPERIAL GERMAN EMBASSY,  
*Washington, September 8, 1893.*

The Imperial Government have just received a telegram from the German consul at Apia, in which he stated that the Samoan Government has applied through him for the assistance of the foreign ships of war, in order to bring about the disarmament of the entire Samoan population, this action being considered indispensable with a view to secure a duration of peace within the islands.

The Imperial Government intend to accede to this request, and consequently decided to retain for the present both the cruisers of the imperial navy in Samoan waters, as well as to instruct their commander to give the desired assistance.

The Imperial Government beg to request the cooperation of the U. S. Government and to ask, if considered possible, for the immediate dispatch of a United States man-of-war to Samoa.

A similar request has been addressed by the Imperial Government to Her Britannic Majesty's Government.

*Baron Saurma to Mr. Gresham.*

[Translation.]

IMPERIAL GERMAN EMBASSY,  
*Washington, September 11, 1893.*

MR. SECRETARY OF STATE: I have the honor to inform you, in obedience to instructions received, that his excellency the chancellor of the Empire has been glad to see, by the two notes of the Department of State of the 1st and 10th ultimo, that a final understanding has now been reached by the treaty powers concerning the appointment of Mr. Ide as



chief justice of Samoa and of Vice-Consul Schmidt as president of the municipal council of Apia.

Vice-Consul Schmidt intends to sail in October and expects to reach Apia in the latter part of December.

With regard to refunding the traveling expenses of both these officers, it is proposed by the German Government that a lump sum of \$1,500 in gold (one-third of which shall be contributed by each of the governments) shall be paid to each of them, as was suggested in the note of Mr. von Holleben, of the 8th of July last, regarding the return expenses of Mr. Cederkrantz and Baron Senfft von Pilsach.

The salaries of the new officers should be computed from the day of their arrival at Apia.

Mr. Ide's wish in respect to his annual leave of absence might, in the opinion of the Imperial Government, be complied with, at least so far as can now be foreseen. The duties of his office would be performed in his absence according to section 2, Article III, by the president of the municipal council.

Mr. Schmidt has not expressed any desire for leave of absence from his post. He has, however, requested that he may be placed in possession of the dwelling which was erected two years ago for the president of the municipal council, for which he is willing to pay a reasonable rent. As the Imperial Government has learned, this dwelling was occupied by Malietoa and his family after the departure of Baron Senfft von Pilsach. As the building in question is a part of the property to be managed by the consuls as the representatives of the municipal president, and is not the private property of Malietoa, it behooves the consuls, in the view of the Imperial Government, to see that the said building is not used for any other than its legitimate purpose. Malietoa or other natives should, moreover, not be allowed to obtain control of the dwelling hitherto occupied by the chief justice, to the use of which Mr. Ide is clearly entitled.

It might be well, in connection with this matter, for the consuls to be furnished with identical instructions, in accordance with section 5, Article V, of the Samoa act.

With regard to the closing passage of your Department's note of August 10, I am instructed to state that Baron Senfft von Pilsach, since his arrival at Berlin, has applied to have his traveling expenses refunded to him.

Our proposals regarding the payment of the return expenses and of the salaries of Baron Senfft von Pilsach, and Mr. Cederkrantz, the two retiring officers, have already been concurred in by the U. S. Government, as stated in your favor of the 31st ultimo, a copy of which I have not failed to transmit to my Government.

I beg to be favored with a reply relative to the payment of Messrs. Ide and Schmidt's traveling expenses, and also to the question as to the dwelling houses to be occupied by these two officers at Apia, and I should be greatly obliged by some information touching the issue of instructions on this subject to the American consul at Apia.

I avail, etc.,

SAURMA.

*Baron Saurma to Mr. Gresham.*

[Translation.]

IMPERIAL GERMAN EMBASSY,  
*Washington, September 13, 1893.*

MR. SECRETARY OF STATE: I have the honor, in obedience to instructions received, hereby to bring to your excellency's notice copies of two reports concerning the suppression of the Mataafa uprising in Samoa which have been addressed to his excellency the chancellor of the Empire, under date of July 15 and 19, 1893, by Mr. Biermann, the imperial consul at Apia.

I am instructed to add that the Imperial Government has learned with great satisfaction of the concerted action taken by the consuls of the treaty powers, and of the energy displayed during that period of agitation by Acting Consul-general Blacklock.

The Imperial Government entertains the hope that the consuls will direct their attention, as soon as circumstances may permit, to the collection of the overdue Samoan taxes.

I avail myself, etc.,

SAURMA.

[Inclosure No. 1.]

APIA, *July 15, 1893.*

I have the honor to inform your excellency that the conflict between Malietoa and Mataafa began on the 8th instant, and that the trouble has not yet been settled.

After the departure of the last steamer we consuls had several conferences with Malietoa and his *faipules*. It was readily seen on these occasions that the war, with most of them, was a cut and dried affair; that nothing but the most earnest dissuasion on the part of all three consuls could bring about a change in their determination, and even that, perhaps, only in case the positive assurance could be given that the treaty powers would interfere in behalf of the Government. Although it was impossible to prevent the war in this way, yet the consuls were united in their efforts and repeatedly succeeded in securing a postponement of the fighting until the fighting men of all the districts that had promised to take part in the war were actually assembled about Malietoa, so that there was more ground to hope that Mataafa's party would soon be repulsed from the municipality.

Mataafa had advanced, on the 5th instant, with his warriors, until he was close to the boundary line of the municipality, to the west of Apia, but withdrew them on the day following, as the opposing force approached, to the Vaitele plantation, where he took up a position which extended in nearly a semicircle across the plantation to the rear of Malie, and which, according to Samoan ideas, was strongly fortified by means of stone walls and rifle pits.

As the mail that arrived here on the 7th instant brought no decisive information with regard to the speedy interference of the powers, Malietoa and the Government declared, on Saturday morning, that they could positively wait no longer. A part of the warriors immediately advanced against the enemy's position, and between 2 and 3 o'clock in the afternoon the fight began. Malietoa's men were driven from their first line of defense with considerable loss, 30 men being said to have fallen, and 15 heads having been brought to Mulinuu. Firing was continued without intermission until a late hour of the night.

The appearance before Mulinuu of 20 large boats, which constituted Mataafa's naval force from Manono and Fagaloa, increased the excitement at Apia in the afternoon. This excitement gradually subsided, however, when it became manifest that the defensive measures which had been quickly adopted by the garrison of Mulinuu were holding the boats in check.

Mataafa's adherents from Savaii, who had withstood the first attack, and had suffered the heaviest losses, were the first to leave him during the night preceding Sunday. Mataafa himself left Malie, after setting it on fire, about daybreak, and fled with his followers to Manono, so as to avoid the general attack which it was proposed to make upon him on Sunday.

At Malie and other adjacent villages many of the houses were burned, palm and breadfruit trees were cut down, plantations were destroyed, and the property of



the rebels was confiscated. Those houses and lands which, owing to flags hoisted over them, could be recognized as belonging to white persons, were not injured as far as I have seen and heard. On the Vaitete plantation provisions were taken, but there was no wanton destruction of property.

The Aana people could easily have taken Mataafa while he was fleeing to Manono. The fact that they did not do so shows that Malietoa can not place any very firm reliance on the adherence of all the districts that originally declared for him.

Mataafa, after vainly seeking refuge at Savaii, is now at Monono. It is said that he is prepared to surrender at discretion, but that his adherents are seeking to dissuade him from doing so, they being willing to risk a battle for the possession of Manono. The next few days will, it is hoped, decide the matter.

Malietoa won his victory by the aid of the Tumuas, who are, on principle, hostile to the Malietoas. The Tumuas generally are adherents of the old royal family of the Tupuas, to which Tamasese and Mataafa belong. This alliance, which is unnatural according to Samoan ideas, is probably to be explained by the fact that Tamasese's adherents desire to be revenged on Mataafa for the losses which they suffered in 1888-'89. Attachment to Malietoa is certainly not the motive of their action. Hints are already occasionally heard which go to show that a reward for Tamasese is expected on account of the aid rendered by him to the Government. It will not be at all surprising if the desire is soon openly expressed that Tamasese be created vice-king, and the step from the position of vice-king to that of rival king is, in Samoa, at least, not a long one.

Should such a desire of the Tamasese people meet with resistance from the Malietoa party, it is quite possible that Tamasese and Mataafa would bury their differences and that the Tumuas would then join issue with the Malietoa party.

The dangers to the white population of Samoa are increased with every new war. The remark has repeatedly been heard in Mataafa's camp that, in case of a victory being gained and an entrance into Apia being effected, the whites and their property would not be spared. A general disarmament and a strict enforcement of the prohibition of the importation and sale of arms are more important now than they have ever been before. Nothing, however, short of an imposing display of force would induce the Samoans to surrender their arms quietly.

BIERMANN.

[Inclosure No. 2.]

APIA, July 19, 1893.

I have the honor, referring to my report of the 15th instant, most respectfully to inform your excellency that the British war ship *Katoomba* arrived here on the 16th from Auckland, bringing the news that the treaty powers had reached an agreement with regard to interfering against Mataafa.

The consuls and the commanders of the three war ships held a conference on the morning of the 17th.

The commander of the British war ship and the commander of His Majesty's cruiser *Buzzard* were at first inclined to postpone action against Mataafa until after the departure for Europe of the mail steamer, which was expected on Wednesday, the 19th. Sundry rumors, more or less reliable, concerning the instructions of the war ships, were in circulation.

The consuls were unanimously of the opinion that the opportunity of bringing the rebels to terms by surrounding and menacing Manono, and thus ending the war, should not be neglected. They thought that if action should be delayed a few days there would be but little likelihood of finding the rebels still at Manono.

The captains yielded to our arguments and declared their willingness to go to Manono on the 18th, provided that Malietoa's Samoan supporters were then ready for the attack. If the summons issued by the consuls, calling on Mataafa to surrender unconditionally—nothing but their lives was guaranteed to him and his chiefs—was not heeded, then the rebels were to be forced to abandon their fortified positions in those parts of the island where a landing could be effected, and thus the coast was to be cleared for the landing of the Government troops, who were then to fight the battle, unaided, on land.

At the close of the conference, the three consuls rode over to Leulumonga, which is distant about 25 kilometers from Apia, and where Malietoa, with his counselors, then was.

A promise was readily given to be ready at 9 o'clock the next morning to make the attack on Manono, and it was kept. About 130 large boats with from 1,500 to 2,000 men on board, were on the spot in good time.

The ships left Apia at 6 o'clock on the morning of the 18th. The consuls were on board of the British war ship in order to prepare the ultimatum, which was to be presented to Mataafa and to conduct any further negotiations with the parties that



might be found necessary. When Manono was reached the ultimatum was sent to Mataafa. It was therein declared that Manono would be attacked at once, unless he accepted the terms offered, and came on board of the British war ship in three hours. Shortly after 11 o'clock two French priests, who had gone to Mataafa from Apia during the previous night, came on board of the *Katoomba* with the announcement that he and his chiefs were prepared to capitulate. At about a quarter past 1 Mataafa himself came on board, and his chiefs soon followed. As but a small number of guns had been surrendered by 3 o'clock, the *Katoomba* remained at Manono for the purpose of effecting the disarmament alone, while the German ships steamed back to Apia, in order to be able to cast anchor before dark.

As to the next step to be taken in the case of the prisoners, no decision has yet been reached.

It is already evident that Malietoa's position has been considerably strengthened by the material aid rendered him by the powers.

It gives me pleasure to add that the beneficial result (which it is hoped may be lasting in its effects) of the speedy arrangement and carrying out of this action is in no small measure due to the mutual cooperation of the commanders and consuls, and to that of the consuls with each other, and, finally, to the indefatigable and most praiseworthy energy displayed by Mr. Blacklock, the American vice consul.

BIERMANN.

P. S.—19th, noon. I learn from the interpreter of the consulate, who has just arrived here on board of the *Katoomba*, that the rebels have not yet been wholly disarmed. About 50 guns had been surrendered when the German war ships left Manono. Immediately afterwards a portion of Malietoa's men went to Manono and took possession of most of the best weapons, in doing which they met with no resistance. The property of the rebels was then plundered in the Samoan fashion, in spite of Malietoa's promise to the contrary, it being alleged, in justification thereof, that the rebels failed to surrender their arms, as they had promised to do.

BIERMANN.

*Baron Saurma to Mr. Gresham.*

[Translation.]

IMPERIAL GERMAN EMBASSY,  
Washington, September 15, 1893.

MR. SECRETARY OF STATE: I have the honor, in obedience to instructions received, and referring to my note of the 14th instant, herewith to inclose a copy of a note of the Royal British embassy at Berlin, bearing date of the 2d instant, from which it appears that the British Government concurs in our proposals relative to Mr. Ide's leave of absence, the payment of his and Mr. Schmidt's traveling expenses, and to their official residences.

I avail myself, etc.,

SAURMA.

*Baron Saurma to Mr. Gresham.*

[Translation.]

IMPERIAL GERMAN EMBASSY,  
Washington, September 16, 1893.

MR. SECRETARY OF STATE: I have the honor, in pursuance of instructions received from the Imperial Government, to inform your excellency that Count von Caprivi, the chancellor of the Empire, appointed, on the 3d instant, Mr. Schmidt, the imperial vice-consul at Apia, as president of the municipal council in that city, and that Mr. Schmidt

intends to sail for Apia during the first half of the month of October, expecting to arrive there in the latter part of December.

The imperial consul at Apia will be instructed to effect, in conjunction with his British and American colleagues, the installation of the new officer by the Samoan Government, in pursuance of article v, section 5, of the Samoa act.

Mr. Schmidt desires, while en route to his post, to pay his respects to your Excellency at the Department of State, and proposes, for that purpose, to visit Washington between the 21st and the 24th of October.

I avail myself, etc.,

SAURMA.

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*Mr. Adee to Baron Saurma.*

DEPARTMENT OF STATE,  
Washington, September 22, 1893.

EXCELLENCY: I have the honor to inform you that the President has appointed Mr. William Lea Chambers, of Alabama, United States land commissioner in Samoa in place of Mr. E. J. Ormsbee, resigned.

Mr. Chambers expects, upon confirmation, to leave the United States for his post about the 20th of October next.

Accept, etc.,

ALVEY A. ADEE,  
Acting Secretary.

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*Mr. Adee to Baron Saurma.*

DEPARTMENT OF STATE,  
Washington, September 22, 1893.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 15th instant, from which it appears that the British ambassador at Berlin has expressed the concurrence of Her Majesty's Government in regard to a leave of absence of two months in each year for Mr. Henry C. Ide, late named as chief justice of Samoa.

It is also stated that the British Government is willing to assume its pro rata share of Mr. Ide's traveling expenses, which includes himself and his family as presented in my note of the 1st instant, as well as the traveling expenses of Mr. Schmidt, agreed upon as municipal president.

It is gratifying to the Department to learn that these details have been satisfactorily arranged.

Accept, etc.,

ALVEY A. ADEE,  
Acting Secretary.

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*Mr. Adee to Baron Saurma.*

DEPARTMENT OF STATE,  
Washington, September 22, 1893.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 11th instant touching Samoan affairs. You add that Mr. Schmidt, lately named as president of the municipal council in Samoa,

intends to sail in October and hopes to reach Apia in the latter part of December. Mr. Ide, as I have heretofore communicated to your embassy, expects to leave San Francisco by the steamer of October 20th, so that he will probably arrive at Apia about the same time that Mr. Schmidt does.

I observe that His Majesty's Government proposes that a lump sum of \$1,500 each be paid to Mr. Ide and Mr. Schmidt to defray their necessary expenses in reaching Samoa, and that their salaries shall be computed from the day of their arrival at Apia.

These propositions are satisfactory to the United States.

In connection with the payment to Mr. Ide, I desire to say that in order to permit him to make all necessary arrangements so that his departure might be expedited, the Department has on this day advanced to him one thousand dollars (\$1,000) on account of his outward transit.

If, therefore, you will request your Government to make its payment of \$500, which is one-third of the whole amount agreed upon to this Government, that it may be covered into the Treasury to the credit of the Samoan fund, the matter can be adjusted in that way. This Government holds itself in readiness to advance to Mr. Schmidt its share of \$500 to defray his transit expenses to Apia, at whatever time and in whatever manner may [be] agreeable to His Majesty's Government and Mr. Schmidt.

"Mr. Schmidt has not," you state, "expressed any desire for a leave of absence from his post. He has, however, requested that he may be placed in possession of the dwelling which was erected two years ago for the president of the municipal council, for which he is willing to pay a reasonable rent."

This building, it is understood, was occupied by Malietoa and his family after the departure of Baron Senfft von Pilsach, and in the judgment of the Imperial German Government it is thought that, it being a part of the property to be managed by the consuls as the representatives of the municipal president and not the private property of Malietoa, the consuls should see that the said building is not used for any other than its legitimate purposes. It is also represented that, in the view of the German Government, the dwelling heretofore occupied by the chief justice should be set apart for his separate use.

The consular representative of this Government at Apia will be instructed to act in concert with his colleagues there to the end that Mr. Schmidt and Mr. Ide may have their respective residences.

You say that since his arrival at Berlin Baron Senfft von Pilsach has applied to have his travelling expenses refunded to him.

In the Department's note of August 31, 1893, it was stated that the consular representative of the United States at Apia would be instructed that whenever he was advised by his colleagues of Germany and Great Britain that they had been authorized to pay over to Mr. Cedercrantz and Baron von Pilsach, or "the latter's legal representative," he was to draw upon the Secretary of State for the sum necessary to pay their expenses.

On the same day, August 31, 1893, an instruction in this sense was sent to Mr. Blacklock, vice-consul-general at Apia.

In view, however, of the fact that Baron von Pilsach has reached Berlin and made request for his travelling expenses, the Department holds itself in readiness to pay over to him the sum of \$500, which is the share of this Government. I inclose a voucher which Baron Senfft von Pilsach should sign and return to this Department, when the sum



named will be paid to your embassy for transmission to him or to the Baron direct, as may be desired.

Accept, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

INCLOSURE.

Voucher mentioned for signature and return.

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*Baron Saurma to Mr. Gresham.*

IMPERIAL GERMAN EMBASSY,  
*Washington, October 11, 1893.*

SIR: I have the honor to acknowledge the receipt of your note of September 6, regarding the assent of the U. S. Government to the deportation of Mataafa and his eleven followers to Jaluit, one of the Marshall Islands belonging to the imperial possessions in the South Pacific, with the understanding that the expenses of the maintenance of these Samoans be divided among the three powers.

In reply to your inquiry as to the probable expenses to be entailed by such deportation and maintenance, I am instructed to state that, as far as it can now be ascertained, the cost of maintenance would probably amount to 60 marks, i. e., about \$14.28 per month for every head.

To this continuous expenditure a singular fee would have to be added for the conveyance of these exiles from Samoa to the Marshall group, which will be accounted for in conformity with the regular rates of transportation on board a ship belonging to the navy.

I avail myself, etc.,

SAURMA.

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*Mr. Adeë to Baron Saurma.*

DEPARTMENT OF STATE,  
*Washington, October 14, 1893.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 11th instant, wherein you set forth the probable cost of deportation of Mataafa and his eleven followers to Jaluit, one of the Marshall Islands, and of their maintenance thereon.

Accept, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

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*Mr. Adeë to Baron Saurma.*

DEPARTMENT OF STATE,  
*Washington, October 18, 1893.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 13th ultimo, inclosing for my confidential information copies of two reports dated, respectively, July 15 and 19, 1893, from the German

consul at Apia in relation to the suppression of the Mataafa uprising in Samoa.

It is gratifying to learn that the part taken by Mr. William Blacklock, vice-consul-general of the United States at Apia, on that occasion has merited recognition by his His Imperial Majesty's Government.

In the matter of the overdue Samoan taxes, to the collection of which your Government hopes the consuls will direct their attention as soon as circumstances will permit, I desire to say that this general subject is now receiving consideration in view of representations made by Mr. Blacklock.

Accept, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

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*Baron Saurma to Mr. Gresham.*

[Translation.]

IMPERIAL GERMAN EMBASSY,  
*Washington, November 6, 1893.*

MR. SECRETARY OF STATE: As your excellency may be aware, King Malietoa, in a communication dated August 14, 1893, and addressed to the consuls of the treaty powers, has expressed a wish for the alteration of the Samoa act so that not the president of the municipal council of Apia, as is provided in Article V, section 5, of the Berlin treaty, but the three consular representatives of the treaty powers shall be the advisers of the Samoan Government.

An understanding exists, however, between the signatory powers that individual changes in the Berlin treaty shall not now be made, and in the opinion of the Imperial Government there is at the present time the less reason for adopting the Samoan proposition, as such a proceeding might easily be regarded as an evidence of unkindly feeling on the part of the treaty powers towards Mr. Schmidt, the newly appointed president of the municipal council, who, as is known, is about to enter upon the discharge of the duties of his new office.

The negotiations relative to this Samoan proposition which have been entered into by the Imperial Government with the British Government have led to a perfect understanding so far as, in the opinion of both powers, no individual changes in the Samoa act should at present be made. The British Government, moreover, has complied with the desire of the Imperial Government that the British consul shall be instructed to meet the wishes of the new president of the municipal council to the fullest extent possible.

According to reports received from the imperial consul at Apia, Mr. Maben, the secretary of state of the Samoan Government is the instigator of this action on the part of King Malietoa. The inimical disposition towards foreign interests in Samoa was manifested by Mr. Maben during the period embraced between the years 1880 and 1890 to such an extent that it was necessary to effect his removal from the office of municipal judge of Apia, which he then filled.

The late administrative officers, Chief Justice Cedererantz and Municipal President Baron Senfft von Pilsach, the latter of whom brought about Mr. Maben's appointment as secretary of state, found their con-

fidence in him to be so misplaced that they soon endeavored to secure his removal.

If, therefore, it is to be regarded as probable that Mr. Schmidt, the new municipal president, will be obliged to renew this proposal, which has hitherto been defeated through Malietoa's opposition, such a step would expose the new officer at the very outset of his career to the most deplorable conflicts and, in the view of the Imperial Government, it is the duty of the treaty governments to protect the new president from the odium which would attend such a step, and, by joint instructions to the consuls, to effect Mr. Maben's removal. Independently of his personal characteristics, there is another thing which militates against his retention in office; this is the amount of his salary (\$1,800 per annum) which, in view of the depleted condition of the Samoan treasury, is no small item. To this must be added the circumstance that owing to the small compass of the administration of a little country like Samoa, the duties of the official adviser of the Government and those of the "secretary of state" must necessarily conflict with each other. The contemporaneous existence of the two offices is, furthermore, undoubtedly at variance with the views that were put on record by the three signatory powers when the Samoa act was adopted.

The Imperial Government is convinced that Mr. Schmidt's usefulness, and especially his cooperation as a colleague with the consuls, is materially dependent upon the removal of undesirable advisers of the natives, and it entertains the hope that the United States Government will share this view.

As regards the proposed removal of Mr. Maben from the office of secretary of state of King Malietoa, the British Government has promised its cooperation in case a joint proposal shall be made by the United States Government and that of Germany.

The Imperial Government trusts that the Government of the United States will share the view of the two other treaty powers concerning the rejection of the Samoan Government's proposal for a change in the provisions of the Samoa act, and that it will be prepared to instruct the acting consul-general of the United States in Samoa to assume a friendly attitude toward Mr. Schmidt, the new president of the municipal council.

In the opinion of the Imperial Government, however, it is also desirable in the interests of a peaceful settlement of Samoan affairs to secure the assent of the United States Government to unite with the Imperial Government in a proposition to that of Great Britain to effect Mr. Maben's removal.

Although the reasons which make this measure desirable have been elucidated and developed above, I would call especial attention to the fact that if Mr. Maben should be allowed to remain in his present position as secretary of state there would soon be two advisers of the King, and thus a state of things would arise which would be wholly at variance with the spirit of the Berlin treaty. The retention in office of such a superfluous officer, while the Samoan Government is in such financial straits as it now is, is the less defensible since an officer who is thoroughly acquainted with Samoan affairs is placed by the side of King Malietoa as an adviser in the person of Mr. Schmidt, the new president, and thus all reason for Mr. Maben's retention is eliminated.

I therefore have the honor, in pursuance of the instructions of the Imperial Government, to solicit the friendly cooperation of the United States Government in the matter of the rejection of the Samoan proposition, of the removal of Mr. Maben, and of the sending of instructions



to the American consul-general to assume a friendly attitude towards the new municipal president, and I shall be grateful for a reply to the threefold proposition.

I avail myself, etc.,

SAURMA.

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*Memorandum of German Embassy.*

NOVEMBER 6, 1893.

By pursuance of instructions received from my Government, I desire to state the following with regard to Samoan affairs:

First. With reference to a request made by King Malietoa that the final act of the Berlin conference might be altered so as to permit the consuls of the three treaty powers to act as advisers to himself and the Samoan Government instead of the president of the municipal council, the British Government agree with the German Government that the moment is inopportune for making any alteration in the act and that the new president of the municipal council, Mr. Schmidt's appointment having been definitely sanctioned by the treaty powers, he is expected to insure the successful accomplishment of all duties pertaining to his office. The cooperation of the United States Government in rejecting the Samoan proposal is therefore requested.

Second. It is further suggested to obtain by joint representation to the Samoan Government the removal of the so-called secretary of state to the Government of Samoa, Mr. Maben, on the grounds that his fitness for the position must be doubted, that the payment of his salary is a heavy burden upon the Samoan finances, and that after the appointment of a new president of the municipal council the position of adviser to the Government belongs to such official, and the existence of any other adviser must prove unnecessary if not injurious.

The British Government have declared with regard thereto that if the United States and German governments address a joint proposal to Her Britannic Majesty's Government for Mr. Maben's removal, the British Government agree to take action in the matter.

The Imperial Government request, therefore, the cooperation of the United States Government for such joint representation.

Third. The Imperial Government request the U. S. Government kindly to instruct the American representative at Apia to observe a friendly attitude toward Herr Schmidt, the newly-appointed municipal president, in order to facilitate the difficult task intrusted to his care.

The British Government have agreed to instruct their consul in the same sense.

The note which I beg to hand you herewith furnishes a detailed statement for the reasons for the three proposals submitted to the United States Government for approval.

German embassy, Washington.

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*Baron Saurma to Mr. Gresham.*

[Translation.]

IMPERIAL GERMAN EMBASSY,

Washington, November 23, 1893.

MR. SECRETARY OF STATE: In reply to the note of the Hon. Alvey A. Adee, acting Secretary of State, bearing date of the 22d of September last, the contents of which I brought without delay to the

notice of the Imperial Government, I have the honor, in obedience to instructions received, herewith to inclose the receipt of Mr. Schmidt, the municipal president of Apia, for 2,100 marks (\$500), being the American Government's quota of his traveling expenses. This sum, which the American Government, in its note of September 22d, expressed its willingness to refund to the Imperial Government, is offset by the \$500 which the American Government is entitled to receive from the German Government as the latter's quota of Mr. Ide's traveling expenses. As these amounts just balance each other, I have been instructed to transmit Mr. Schmidt's receipt to the Department of State, requesting in return a similar receipt for the amount of Germany's quota of Mr. Ide's expenses, which latter receipt I am to forward to Berlin.

As regards the \$500, which is the American Government's quota of the traveling expenses of Baron Senfft von Pilsach, the German consul at Apia was instructed, on the 4th ultimo, on the strength of your excellency's note of the 31st of August last (a copy of which was likewise laid before the Imperial Government), to collect this amount from the American representative at Apia. The inclosed voucher for \$500, which has been sent to this embassy, is consequently returned unsigned.

I avail myself, etc.,

SAURMA.

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*The United States to Baron Senfft von Pilsach, Dr.*

[On account of the appropriation for protecting the interests of the United States in the Samoan Islands.]

Sept. 22, 1893. On account of expenses of transit home from Apia, Samoa, to Berlin, Germany ..... \$500

Received this — day of —, 189—, from F. J. Kieckhoeffer, disbursing clerk, Department of State, five hundred dollars, in full payment of the above account. \$500.

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[Translation.]

*Receipt.*

I hereby acknowledge the receipt of 2,100 (two thousand one hundred) marks, or 500 (five hundred) dollars in U. S. currency, being the quota of the Government of the United States of America of the sum of fifteen hundred dollars which has been allowed to me for the payment of my traveling expenses to Apia, the said five hundred dollars having been paid to me for the United States Government by the Imperial foreign office at Berlin.

E. SCHMIDT,

*President of the Municipal Council of Apia.*

BERLIN, September 21, 1893.

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*Mr. Gresham to Baron Saurma.*

DEPARTMENT OF STATE,

*Washington, December 21, 1893.*

EXCELLENCY: I have the honor to apprise you of the receipt of a note from the British ambassador of the 12th instant, in reference to the proposition of Her Majesty's Government that the wives of Mataafa

and his banished followers should be permitted to rejoin their husbands in their exile. In his note of the 19th ultimo, to the British chargé d'affaires at Berlin, copy of which Sir Julian incloses, Baron Marschall concurs in the proposition of Her Majesty's Government, but adds that "before definite instructions on the subject are issued to the consuls, it will be necessary to obtain the concurrence of the Government of the United States to the proposed action."

The President recognizes the humane motives that actuated the British Government in the premises, but before giving the assent of the Government of the United States, he would be glad to learn how long a time, approximately, it is proposed to keep these deported chiefs in exile.

Awaiting an expression of the views of His Imperial Majesty's Government on the subject, and adding that a note in this sense has been addressed to your colleague, the British ambassador,

Accept, etc.,

W. Q. GRESHAM.

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*Mr. Gresham to Baron Saurma.*

DEPARTMENT OF STATE,  
Washington, January 13, 1894.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of November 23 last. You therein inclose the receipt of Mr. E. Schmidt, president of the municipal council of Apia, for 2,100 marks (\$500, United States currency), being the quota due from this Government on account of his traveling expenses.

It appears that this amount has been advanced by the German Government and that it is to be offset by a receipt from Mr. Henry C. Ide, chief justice of Samoa, for a like sum on account of expenses which were advanced to him by the Government of the United States on behalf of the German Government.

I inclose for your information a certified copy of the voucher signed by Mr. Ide on September 22, 1893, trusting that this may be sufficient for His Majesty's Government's purposes. In case, however, it be still desired, Mr. Ide, who, as you are aware, is now in Samoa, will be requested to sign and return to this Government a receipt for \$500, which latter will be sent to you to replace the certified copy now inclosed.

Accept, sir, etc.,

W. Q. GRESHAM.

INCLOSURE.

Certified copy of voucher as above referred to.

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*Memorandum.*

The imperial German consul at Apia has in his reports to the foreign office expressed the opinion that the term of the Samoan land commission, which according to the agreement entered into by the treaty powers in May, 1893, will expire on March 31, 1894, will have to be extended for a further period of eight or nine months from that date for the completion of the labors of said land commission.



The imperial secretary of state for foreign affairs has therefore addressed the United States ambassador residing in Berlin and the British ambassador accredited to the imperial court requesting them to lay before their Governments the proposal to extend the term of the labors of the Samoan land commission to the end of this year—i. e., the 31st of December, 1894.

The Imperial Government would feel greatly obliged for an early decision on the part of the United States Government with regard to this matter, in order that the labors of the commission may continue without interruption, and would request, with a view to sending the necessary instructions to the German member of the commission at Apia prior to the 31st of March, that the United States Government's decision might be transmitted by telegraph through the United States embassy at Berlin.

German Embassy, January 18, 1894.

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*Mr. Gresham to Baron Saurma.*

DEPARTMENT OF STATE,  
*Washington, January 22, 1894.*

DEAR MR. AMBASSADOR: I beg to hand you herewith a memorandum, in response to the one of the 18th instant delivered by Baron Ketteler, in regard to the proposed extension of the Samoan land commission.

I will send suitable instruction by cable to the United States land commissioner when informed that your Government and that of Great Britain are about to do or have done the same thing.

Very cordially yours, etc.,

W. Q. GRESHAM.

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*Memorandum.*

The suggestion contained in the German ambassador's memorandum of the 18th instant that the Samoan land commission be extended to the close of the present year in order to enable the completion of its labors was directly brought to the notice of this Government through its ambassador at Berlin. An inquiry of the British Government having elicited a favorable response, and the German Government having requested an answer by telegraph, an instruction was cabled to Mr. Runyon on the 20th instant to acquaint the Imperial Government with the concurrence of the United States in the proposed extension.

Department of State, Washington, January 22, 1894.

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*Memorandum.*

GERMAN EMBASSY,  
*January 24, 1894.*

According to telegraphic advice received by the foreign office from the Imperial consul at Apia, the rebels in Samoa have proclaimed the adult Tamasese their king, who intends to open war against Malietoa's Government.

The consuls of the treaty powers have therefore been requested to ask for the dispatch of war vessels to Samoa, and the American as well

as the British representative are said to have transmitted such requests to their respective Governments.

The Imperial Government would be grateful to obtain the United States Government's views upon the subject, and would request to be informed if and at what time the United States Government intends to dispatch vessels of war to Samoan waters.

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*Baron Saurma to Mr. Gresham.*

IMPERIAL GERMAN EMBASSY,  
Washington, January 29, 1894.

DEAR SIR: The New York papers of yesterday's date contain notices of the late uprising in Samoa, headed by the son of Tamasese, in regard to which I had the honor to confer with you at the State Department on the 24th of this month.

I would therefore be very much obliged for some information which would enable me to report to my Government if these newspaper statements have meanwhile been borne out by official advice from the United States vice-consul-general at Apia, and if such is the case would be grateful to obtain the United States Government's views upon the actual situation, and if and at what time your Government intends to dispatch men-of-war to Samoan waters.

While requesting an early reply, I remain, my dear Mr. Secretary of State,

Yours, very truly,

SAURMA.

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*Mr. Gresham to Baron Saurma.*

DEPARTMENT OF STATE,  
Washington, January 29, 1894.

EXCELLENCY: I have just received your unofficial note of this date in which you ask to be informed whether this Government has received from our vice-consul-general at Apia information confirmatory of the accounts contained in the New York papers of yesterday of a recent uprising in Samoa headed by the son of Tamasese, and, if so, what are the views of the United States of the situation and when this Government intends to dispatch men-of-war to Samoan waters.

Since our interview on the 24th instant I have received from our vice-consul-general at Apia a dispatch under date of January 1, giving an account of the situation on the islands. He speaks of symptoms indicating that peace is about to be disturbed, but thinks there is no fear of immediate hostilities. He says there are numerous malcontents on the islands and advises that they be treated as Mataafa and his adherents were treated, and that each of the treaty powers send three ships to the islands to disarm all the natives.

If there has been an uprising, it has occurred since this dispatch was written. I informed the British ambassador a day or two ago that you had information from your Government of an insurrection on the islands, or some of them, having for its object the dethronement of King Malietoa in the interest of a son of Tamasese, and that your Gov-

ernment desired the cooperation of the United States in the suppression of the rebellion. The ambassador replied that he had received no such information from his Government. Under these circumstances the Government of the United States does not feel called upon to dispatch a man-of-war to Samoa to act in cooperation with German and British war ships, as suggested by your Government.

Accept, etc.,

W. Q. GRESHAM.

*Baron Saurma to Mr. Gresham.*

[Translation.]

IMPERIAL GERMAN EMBASSY,  
Washington, January 31, 1894.

Mr. SECRETARY OF STATE: Since your excellency announced, by your note of September 6, 1893, the assent of the United States Government to the proposal that Mataafa and the principal ringleaders in the recent Samoan disturbances should be conveyed to Jaluit on board of a German war vessel, and interned there at the expense of the three governments, the suggestion has been made from Samoa, to the Imperial Government, that the three treaty powers should defray the expense occasioned by the preliminary detention of the rebels on the island of Fakaofu, in the Union group.

It appears from a report of the imperial consul at Apia, which has been communicated to me, that the eleven prisoners were kept in Fakaofu for three months and a few days (i. e., from August 3 until about November 8, 1893), and that the expense of their maintenance was, according to contract, £22 sterling per month.

As the British consul at Apia will probably visit the Union Islands in May next, he might, on that occasion, pay this money to those who are entitled to receive it.

The Imperial Government is prepared, in compliance with the aforesaid suggestion, to pay one-third of the expense in question, with the proviso that it be refunded, hereafter, by the Samoan Government, in case the United States Government and the Government of Great Britain are disposed to do the same, and I beg your excellency to take the matter into consideration, and to inform me of the conclusion that shall be reached.

I avail myself, etc.,

SAURMA.

*Baron Saurma to Mr. Gresham.*

[Translation.]

IMPERIAL GERMAN EMBASSY,  
Washington, January 31, 1894.

Mr. SECRETARY OF STATE: Referring to your excellency's note of the 22d instant (with memorandum), in which was announced the consent of the United States Government to the extension of the time allowed for the labors of the Samoan land commission, to the close of the year



1894, I have the honor to make the following communication to your excellency:

According to the reports received by the Imperial Government from Apia, the members of the land commission are convinced that, even with the utmost diligence, it will be quite impossible for them to finish their labors by the 31st of March next. Both the German and the English land commissioner firmly believe, however, that the extension by one year of the time for their labors, which was proposed by the commission last year, would have been sufficient to enable them to terminate the examination of all land claims, as provided by the Samoa act, if those labors had not been interrupted for nearly eight months, owing to the fact that the office of American commissioner was vacant.

Now that the time allowed for the work of the commission appears to have been sufficiently extended, it would seem to be necessary to make provision at once to prevent another interruption.

As the American commissioner is said to have repeatedly stated that he was to remain not longer than the close of the month of March, 1894, and that he would therefore in all probability take his departure at that time, the American commissioner should be directed without delay to remain at Apia beyond that time, or the timely appointment of a successor be made.

In the reports which have been received by the Imperial Government from Apia, the talent as a jurist of Mr. William Lea Chambers, the new American member of the Samoan land commission, is spoken of in complimentary terms. He has quickly made himself familiar with his new duties, and has zealously and intelligently labored to further the work of the commission, so that during the brief period which elapsed between the time of his arrival and the 1st instant, upwards of sixty land claims were adjudicated.

I may refer, in this connection, to a letter of Chief Justice Henry C. Ide, dated Apia, December 6, a copy of which has been sent to me by the chancellor of the Empire, and which has doubtless come, in the same form, to your excellency's notice.

While, therefore, Mr. Chambers' stay at his post subsequently to March 31, 1894, seems in every way desirable in the interest of the furtherance of the work to be done by the land commission, I should be greatly obliged to your excellency if you would inform me what has been done in this matter.

I avail myself, etc.,

SAURMA.

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*Baron Saurma to Mr. Gresham.*

[Translation.]

IMPERIAL GERMAN EMBASSY,  
Washington, February 6, 1894.

MR. SECRETARY OF STATE: In my note of November 6, of last year, I had the honor to submit to the United States Government on behalf of the Imperial Government, the following three propositions relating to (1) the declination of the Samoan proposition to amend Article v, section 5, of the treaty of Berlin; (2) the recall of the secretary of state, Maben; (3) the instructions of the American representative respecting a friendly attitude towards the new president of the municipality.

I also submitted to your excellency at the same time a memorandum in the English language explanatory of this note.

While I have not as yet received an expression from the United States Government, it appears from the reports of the imperial consul at Apia, received in the meantime, that Mr. Maben, the Samoan secretary of state, has been removed from office.

Information concerning said removal and the reasons that led thereto have most likely reached your excellency through the representative of the United States at Apia.

The Imperial Government view with satisfaction Mr. Maben's removal, effected by the joint action of the three consuls, as it appears from the reports of the imperial consul that his further retention in office would have been conducive of continual complications.

I am herewith instructed to emphasize that, in the opinion of the Imperial Government, it would seem proper to request the consuls of the treaty powers in future to exert every effort to keep from Malietoa and the Samoan Government all unauthorized counselors.

In addition to requesting your excellency to give the matter your attention and to adopt such measures as it might seem to require, I should be under a special obligation for an expression of agreement hereto.

I avail myself, etc.,

SAURMA.

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*Baron Saurma to Mr. Gresham.*

[Translation.]

IMPERIAL GERMAN EMBASSY,  
Washington, February 12, 1894.

MR. SECRETARY OF STATE: I had the honor to receive your excellency's note of December 21, 1893, and immediately communicated to the Imperial Government the inquiry of the United States Government respecting the probable duration of the exile of the Samoan rebel, Mataafa, and the other rebellious chiefs detained on the Marshall Islands.

According to the reply just received from the Secretary of State, the aforesaid inquiry, in the opinion of the Imperial Government, can not, at present, in view of the uncertainty of affairs in Samoa, even be approximately answered. It will, on the contrary, be necessary to wait for a considerable time and see what will be the outcome of the state of affairs in Apia. The Imperial Government would consider it a mistake, and as incompatible with the duty of the treaty powers toward the white settlers, to permit the rebel chiefs to return before perfect tranquillity has been restored in Samoa. The advices just received from Samoa, according to which (as the United States Government has been informed) fresh disturbances threaten to break out among the natives, show, in the opinion of the Imperial Government, how dangerous it would be to allow a premature return of the exiles.

I beg leave to remark that the royal Government of Great Britain fully concurs in the above stated view of the Imperial Government relative to the duration of the exile of these chiefs.

I avail myself, etc.,

SAURMA.

*Mr. Gresham to Baron Saurma.*

DEPARTMENT OF STATE,  
Washington, February 14, 1894.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 31st ultimo, further relating to the deportation of Mataafa, and eleven chiefs, who, agreeably to a report from the German consul at Apia, have been detained in Fakaofu from August 3 to November 8, 1893, at an expense, according to contract amounting to £22 per month. It is represented that the British consul who is expected to visit the group in May next, might take occasion to pay over the money to those entitled to it, and the suggestion is made that the amount should be refunded by the Samoan Government.

Mr. Blacklock, the consul of the United States at Apia, will be instructed to draw upon the Secretary of State for one-third of the amount in question, being the share of this Government, and pay it over to the British consul there, to be disposed of as suggested by you.

I deem it proper to say in this connection, this Government does not understand that the detention of Mataafa and his chiefs by the three powers is to be prolonged for an indefinite number of years.

Accept, etc.,

W. Q. GRESHAM.

*Baron Saurma to Mr. Gresham.*

IMPERIAL GERMAN EMBASSY,  
Washington, March 6, 1894.

SIR: With reference to your note of January 13 last, relative to the payment of the quota due by the governments of the treaty powers on account of the traveling expenses of the foreign officials in Samoa, I have the honor to inform you in pursuance of instructions received, that the certified copy of the voucher signed by the chief justice, Mr. Ide, on September 22, 1893, for the receipt of \$1,000, has not been considered sufficient by the auditing department of the service, in order to show the payment of \$500 to Mr. Ide by the German Government.

I have, therefore, to avail myself of the kind offer expressed in the Department's note referred to above, and beg to request you kindly to ask Chief Justice Ide, in Apia, to sign and return to you for transmission to this embassy a receipt for \$500, being the quota due by the German Government on account of his traveling expenses from the United States to Samoa.

Accept, etc.,

SAURMA.

*Mr. Gresham to Baron Saurma.*

DEPARTMENT OF STATE,  
Washington, March 7, 1894.

EXCELLENCY: Referring to the Department's note to you of the 9th ultimo, relative to the extension of the period fixed for the completion of the labors of the Samoan land commission and to the efforts of this Government to induce the American land commissioner to remain at



his post until the completion of the labors of the commission, I have the honor to inform you that I have received a report dated January 29 last, from the American land commissioner, stating that during January, 1894, the commission had disposed of 326 claims, making 1,094 claims since his arrival, and leaving 986 yet on hand. He adds that if during February and March the commission shall make as good progress there will remain undisposed of on April 1 next in the neighborhood of 350 claims.

At the date of Mr. Chambers's report the bad weather season had commenced and would probably continue two months. He states that although the claims not yet disposed of are located at much greater distances from the seat of trial, which may cause delays in getting claimants, objectors, and witnesses together, the commissioners, nevertheless, hope to overcome the difficulties by the employment, if need be, of an assistant to the natives' advocate and additional messengers.

Mr. Chambers's report was written before he learned of the arrangement extending the time for the completion of the work of the commission. He states that the commissioners all recognize the importance of the work and the obligation resting upon them to complete it, if possible, before the 31st day of March. From the tenor of his report it would seem that Mr. Chambers is not unwilling to give a few months more to the completion of the work, and has doubtless acquiesced in the direction telegraphed him by this Department relative to remaining at his post for so much of the extended time as may be necessary to complete the labors of the commission.

Accept, etc.,

W. Q. GRESHAM.

*Mr. Adce to Baron Saurma.*

DEPARTMENT OF STATE,

Washington, March 10, 1894.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 6th instant, and to inform you that, in accordance with your request, Mr. Ide, the chief justice of Samoa, has been requested to forward here for transmission to you, his receipt for \$500, being the quota paid by the German Government on account of his traveling expenses from the United States to Samoa.

Accept, sir, etc.,

ALVEY A. ADEE,  
Acting Secretary.

*Mr. Uhl to Baron Saurma.*

DEPARTMENT OF STATE,

Washington, March 23, 1894.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 6th ultimo, in which you refer to the three propositions regarding matters in Samoa which were presented in your previous note and memorandum of November 6, 1893, and express the satisfaction felt by the Imperial Government at the removal of Mr. Maben, the so-called secretary of state of the islands, to which the second of your propositions related.

There were circumstances which prevented an immediate response to your note of November last, and in the meantime the announced retirement of Mr. Maben, and the cordial reception given to Herr Schmidt, the new president of the municipal council, by the officers of the three treaty powers residing at Apia, appeared to have removed occasion for specific reply on those two points.

The first proposition of your note of November 6 related to the request of the Samoan Government for such modification of Article v, section 5, of the general act of Berlin, as would permit the three consuls jointly to continue to act as advisers to the King, as they had done since the retirement of Baron Senfft.

This Government is indisposed to consider amendments of the character suggested, inasmuch as it is our intention to suggest in the light of large experience, such a consideration of the entire subject as may result in the substantial modification of obligations of the United States in the premises.

The question of conferring special advisory functions upon the three consuls being thus set aside, and the powers of the royal adviser continuing unquestioned where they were lodged by the general act, the existing arrangements seem to go as far as is reasonable in the direction of keeping from Malietoa and the Samoan Government "unauthorized counselors" of the class you describe.

Accept, etc.,

EDWIN F. UHL,  
*Acting Secretary.*

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*Baron Saurma to Mr. Gresham.*

IMPERIAL GERMAN EMBASSY,  
*Washington, March 28, 1894.*

MR. SECRETARY OF STATE: I had the honor to receive your excellency's note of December 21, 1893, relative to the proposal of the royal Government of Great Britain to send the wife of Mataafa, the chief who is now in exile on the Marshall Islands, and also the wives of his followers, to join their husbands on those islands, and I duly brought its contents to the notice of the Imperial Government.

The imperial consul at Apia has been instructed by the Imperial Government, which had signified its willingness to accede to this proposal, to report on the subject, especially concerning the manner and cost of the transportation. This report was made under date of January 3, 1894, and I have the honor to inclose a copy of it for your excellency's perusal.

I avail myself, etc.,

SAURMA.

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*APIA, January 3, 1894.*

I have the honor to inform your excellency that the question of sending the wives of the Samoan prisoners to join their husbands was raised during the conference of the consuls and of the commanders of the war ships, on the 25th of July last, by Capt. Bickford, after an understanding had been reached relative to the removal of the prisoners by His Majesty's cruiser *Sperber*.

Capt. Flichtenhöfer, vice-consul Blacklock, and I expressed ourselves in opposition to this measure, while Consul Cusack-Smith made no definite answer.

The reason that induced me, and I think also Mr. Blacklock and Capt. Flichtenhöfer to oppose this proposition, was not that we objected to it in principle, but was, in the first place, the consideration that the transportation of so many women on

board of the *Sperber*, where the accommodations were very limited, would be inconvenient, and might easily occasion trouble; and in the second place, the thought that an additional expense to the Samoan Government would be thereby occasioned, which, in view of the limited resources of that Government, was a large one, and not absolutely necessary. It had at that time not been decided that the treaty powers were to defray the cost of the maintenance of the prisoners, and the additional expense of the deportation of eleven women would have amounted to upwards of \$1,000 per annum, an outlay which, when the receipts of the Government amounted to only about \$10,000 or \$11,000, did not seem admissible.

During the afternoon of the same day, the consuls had a conference with Malietoa and the Faipules, in which the latter were requested to state their opinion with regard to the proposition of the British commander. According to the notes which I took of this conference, Malietoa said in reply: "Such is not our custom. If they desire, hereafter, to have their families with them, they can send for them by another vessel."

There is no longer any communication by means of merchant vessels between Samoa and the Marshall Islands. It will, however, at all times be possible to charter a small vessel here, of about 30 tons burden, with accommodations for, say, 30 native passengers for a trip to Jaluit.

The price payable for such a vessel would be, perhaps, from 40 to 80 marks per day, in addition to which, board for each passenger would cost from 1 to 2 marks per day.

Allowing, say thirty days for the voyage out and seventy-five days for the round trip, the expense of the transportation of eleven persons would be from 4,000 to 6,000 marks.

BIERMANN.

To His Excellency Count VON CAPRIVI,  
*Chancellor of the Empire.*

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*Mr. Gresham to Baron Saurma.*

DEPARTMENT OF STATE,  
*Washington, April 2, 1894.*

EXCELLENCY: Referring to previous correspondence, especially to my note of the 7th ultimo, relative to the extension of the period fixed for the completion of the labors of the Samoan land commission, and to the efforts of this Government to induce the American land commissioner to remain at his post until such completion, I have the honor to inclose herewith copy of a dispatch from Mr. Chambers stating that, for reasons given, it will be impracticable for him to remain in Samoa beyond the end of March.

As only 579 claims remain unadjusted, none of which appear to concern citizens of the United States, it is thought that the German and British commissioners, constituting a majority of the commission, under an agreement of the three powers, might dispose of the remaining claims, thus closing up the work of the commission and avoiding the delay which would supervene if it were deemed necessary to send out a new American commissioner to replace Mr. Chambers.

Accept the assurances, etc.,

W. Q. GRESHAM.

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*Mr. Uhl to Baron Saurma.*

DEPARTMENT OF STATE,  
*Washington, April 3, 1894.*

EXCELLENCY: I have the honor to transmit herewith for the consideration of His Majesty's Government, having reference to the Department's note of September 23 last, in relation to an allowance of



\$1,500 to Mr. Henry C. Ide, chief justice of Samoa, for traveling expenses, a copy of a letter of February 23, in which, for reasons stated, Mr. Ide urges that an additional allowance of \$1,000 on that account be granted him in order to place his compensation upon an equality with that of his predecessor and the other officers at Apia.

The Department, before finally determining the matter, will be glad to ascertain the views of His Majesty's Government upon the subject. The sum each Government would be called upon to pay would be \$333.33, or one-third of the whole amount.

A similar note has been addressed to your colleague, the British ambassador.

Asking that you will cause Mr. Ide's request to be promptly made known,

I desire to renew, etc.,

EDWIN F. UHL,  
*Acting Secretary.*

*Baron Saurma to Mr. Gresham.*

[Translation.]

IMPERIAL GERMAN EMBASSY AT WASHINGTON,  
*Washington, May 2, 1894. (Received May 3.)*

MR. SECRETARY OF STATE: I have the honor, in pursuance of instructions received from the Imperial Government, herewith to transmit to your excellency a copy of the report of the officer in command of His Majesty's cruiser *Sperber*, concerning the transportation of Mataafa and the rebellious Samoan chiefs to the Marshall Islands.

I avail myself, etc.,

SAURMA.

[Inclosure.]

SINGAPORE, *January 26, 1894.*

To the COMMANDING ADMIRAL, *Berlin:*

On the 8th instant, in the afternoon, we stopped at Fakaofa, where the British agent immediately came on board and said that he was prepared to bring the captive chiefs on board with very little delay. As their place of destination was unknown to the chiefs, they came on board very quickly, probably hoping that they were to be taken back to Apia. Consequently, after a delay of scarcely two hours we were able to continue our voyage to the Marshall Islands.

When the chiefs perceived that they were not going back to Apia, they were at first greatly dejected, but were soon cheered up by kind treatment (two of the officers were able to converse with them in their own language).

On the 17th of September, in the afternoon, we anchored at Jaluit, and at 4 o'clock the Samoans were turned over to Dr. Schmidt, the imperial commissioner. The captives were temporarily lodged in unoccupied storerooms, and lands were assigned them, on which they may, if they like, hereafter erect their huts.

VON ARNOLDI.

*Baron Saurma to Mr. Gresham.*

[Translation.]

IMPERIAL GERMAN EMBASSY,  
*Washington, May 7, 1894.*

MR. SECRETARY OF STATE: As your excellency will see by the inclosed copy of a communication from the president of the municipality, dated Apia, February 19, 1894, that officer has communicated

to the consuls of the treaty powers a resolution adopted by the municipality, the object of which is to exclude German and American money as a legal tender from Samoa, and to cause none but English money at the rate of 4 shillings to the dollar to be received. In the opinion of the Imperial Government, there is, at present, no reason for the adoption of such a resolution by the municipality; it would, moreover, be in contravention of the right established in the Samoa act. In Article VI, section 4, of that treaty, it is expressly provided that, besides American dollars and cents, other coins may circulate in Samoa at their standard value. The Imperial Government consequently intends to instruct the imperial consul at Apia in this sense.

In having the honor to bring the foregoing to your excellency's notice, I take the liberty, in pursuance of instructions received from the Imperial Government, to make the inquiry whether the U. S. Government has received the above-mentioned resolution of the municipal council, and what position your excellency proposes to take in the matter.

In connection with previous correspondence had by the Department of State with the imperial legation at Washington in reference to the Samoan money question, I take the liberty to refer to the note of Mr. William F. Wharton, Acting Secretary of State, to Mr. von Holleben; the imperial envoy, of March 24, 1892, and to that of Mr. Alvey A. Adee, Acting Secretary of State, to Baron von Ketteler, of August 15, 1892.

Hoping to be favored with a reply, I avail myself, etc.,

SAURMA.

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[Inclosure.]

T. B. CUSACK-SMITH, Esq.,  
*Her Britannic Majesty's Consul.*

M. BIERMANN, Esq.,  
*Imperial German Consul.*

W. BLACKLOCK, Esq.,  
*U. S. Vice-Consul-General.*

GENTLEMEN: As is known to you, the municipal council of Apia, at a meeting held on the 7th instant, has taken the following resolution:

"That the president be requested to communicate with their respective governments with a view to the elimination of the German and American coinage from the treaty currency of this country and the adoption of the British coinage at the rate of 4 shillings per dollar."

I have now the honor, most respectfully, to request that you kindly communicate in the matter with your Governments and inform me of the result.

I have, etc ,

E. SCHMIDT,  
*President of the Municipal Council.*

APIA, February 18, 1894.

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*Mr. Gresham to Baron Saurma.*

DEPARTMENT OF STATE,  
Washington, May 12, 1894.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 1st ultimo, wherein you inclose a note from the British ambassador at Berlin relative to the payment of the expenses of the exiled Samoan chiefs, and ask the concurrence therein of this Government. It appears now that instead of the British consul at Apia

taking the money to defray such expenses as was previously suggested, the British Government thinks that the "money should be provided in the first instance by the Imperial German Government, who will eventually claim one-third of the total expenditure from each of the other Governments concerned."

The arrangement now proposed to meet the expenses of these detained chiefs seems unobjectionable to the Government of the United States.

With reference to the report of the German consul, dated Apia, January 30, 1894, concerning a possible outbreak there, and submitting with regard to this Department's note of December 21 last as to the duration of the deported chiefs' exile, that their premature return would not be conducive to a durable restoration of peace on the islands, I desire to state that much later information, received through the British ambassador here, indicates that his Government does not apprehend further disturbances there. It is, in fact, much more reassuring in this respect than the report of Consul Biermann.

Accept, Mr. Ambassador, etc.,

W. Q. GRESHAM.

*Mr. Uhl to Baron Saurma.*

DEPARTMENT OF STATE,  
Washington, May 16, 1894.

EXCELLENCY: I have the honor to acknowledge receipt of your note of the 2d instant, with which was inclosed a copy of the report of the commanding officer of the German cruiser *Sperber* in relation to the transportation of Mataafa and his followers to the Marshall Islands.

Accept, etc.,

EDWIN F. UHL,  
*Acting Secretary.*

*Mr. Uhl to Baron Saurma.*

DEPARTMENT OF STATE,  
Washington, May 19, 1894.

EXCELLENCY: Referring to your note of March 6 last and to my reply of the 10th of the same month, I have now the honor to inclose to you the receipt of Mr. Henry C. Ide, chief justice of Samoa, for \$500, being the quota paid by the German Government on account of his traveling expenses from the United States to Apia.

Accept, etc.,

EDWIN F. UHL,  
*Acting Secretary.*

*Memorandum.*

[Received from the German embassy, May 25, 1894.]

In the Department's note of April 2, relative to the departure of the American member of the Samoan land commission, Mr. Chambers, thus leaving the labors of the commission unfinished and causing a most undesirable delay in the settlement of the remaining claims, all



of which seem to affect the interests of German and British residents, it was proposed to dispose of these claims without the cooperation of an American delegate.

The Imperial Government is at present hardly prepared to accede to this proposal, which would involve an alteration of the Samoan general act, as according to the view lately expressed by the U. S. Government, any alteration or revision of separate articles of the Samoan general act is considered equally undesirable by the foreign office at Berlin.

As the validity of the acquisition of property decided upon by less than 3 commissioners might be questioned in the future, the Imperial Government consider the presence of an American land commissioner absolutely necessary.

It appears from advices received from Apia that Mr. Chambers would consent to return to Samoa after having attended to his private business in this country, and the Imperial Government would suggest that this course be adopted if possible, as Mr. Chambers' early return to Samoa would be most apt to repair the injury caused to the public interests in Samoa by the sudden departure from his post without awaiting the appointment of a successor, as well as the serious inconvenience occasioned last year by the absence of an American land commissioner during a period of eight months.

IMPERIAL GERMAN EMBASSY,  
*Washington, May 25, 1894.*

*Baron Saurma to Mr. Gresham.*

IMPERIAL GERMAN EMBASSY,  
*Washington, May 26, 1894.*

MR. SECRETARY OF STATE: I have the honor, in pursuance of instructions received, herewith to transmit to your excellency a copy of another report concerning the situation in Samoa, made by the imperial consul at Apia under date of March 26, 1894. The report describes the contests which have taken place in Samoa during the past few months and calls attention to the renewed depredations and to the dangers resulting therefrom to plantations owned by foreigners, especially those owned by Germans.

It is further shown by this report that the occurrences which have taken place render it once more evident that the present state of things can not continue in Samoa, as has already appeared from the press telegrams from Apia.

The battles of the natives appear, from the consul's report, to be carried on in a manner which, owing to their cruelty, does violence to every sentiment of humanity and civilization, and for this reason alone it would seem that a change should be made in the state of things in Samoa.

I avail myself, etc.,

SAURMA.

[Inclosure.]

*Mr. Biermann to Count von Caprivi.*

APIA, March 26, 1894.

I have the honor, referring to my report of January 30, 1894 (No. 18), most respectfully to communicate the following to your excellency. The events of the last few weeks have shown more conclusively than ever that the disarming of the Samoans is absolutely necessary if peace is to be expected for any length of time.

The latest uprisings were planned and carried out without any reason; simply from a love of revolution and from a desire to lead a pleasant warlike life.

The Samoans are and will remain children, and to consider them as intelligent persons who are able to govern themselves leads to these constant troubles under which the Germans and their plantations suffer.

In my report of January 30 I stated that the Aana chiefs had voluntarily presented themselves in order that their complaints might be investigated, and that, if deemed necessary, punishment might be inflicted upon them for their rebellious acts against the recognized Government at Mulinu'u.

Of the complaints, presented between 20 and 30, which they had at first sent in in writing, they withdrew all but one, viz, that Malietoa had declared in favor of the disarming of all Samoans. This, too, was but a pretext. The real reason was that they desired to overthrow Malietoa without any cause except that they wished to proclaim a new king.

Before the decision of the chief justice had been pronounced, the Atua chiefs declared that they made common cause with the Aana party, and that they disapproved the decision of the chief justice. Before the chief justice pronounced his decision he discussed the whole matter with the consuls and the president, and then, with the approval of us all, decided that the ringleaders of the movement should be imprisoned and that the less guilty ones should be fined, being kept under arrest until their fines were paid. Of these fines, thus far, just as little has been paid as of the fines which were sometime ago imposed upon the adherents of Mataafa. Only the former rebels residing in the Tuamasaga—i. e., in the vicinity of Apia—have begun, in pursuance of the agreement with the Government, to build a piece of road assigned to them on the north coast of Upolu, instead of making payments in money.

During the next few weeks after the decision had been rendered, peaceful and warlike reports were received in quick succession. When the mail left on the 28th of February, a disposition in favor of peace appeared to prevail in Aana, but as early as the 7th instant the first shots were exchanged between the rebels and the Savaii people, who were on the side of the Government.

After the first important attack of the Government had proved unsuccessful, the attitude of the Atua party, which threatened to march into the neutral territory and to advance upon Mulinu'u, became so suspicious that the consuls, simply for the purpose of saving time, urged in a proclamation issued by them that peace should be maintained. The proclamation attained its object, for the Atua party was again obliged to deliberate as to the action which, in view of the proclamation, it was proper for them to take. A few days afterwards, when the situation again became critical, the consuls were requested by the president, in the name of the Government, to come to a conference at Mulinu'u, in order to give advice and assistance.

At the meeting at Mulinu'u, at which it was evident that the Government party stood in great fear of an eruption by the men of Atua, inasmuch as that would have compelled them to carry on war in two quarters, the consuls were requested to visit Atua in person, in order to restrain the chiefs by persuasions from hostile acts against the Government. We declared our readiness and sent word on the 17th instant to the Atua chiefs that we would see them at one of their principal places on the 19th or 20th. At the same time messengers of the Government went from Mulinu'u to their people, urging them to make a speedy advance upon the rebels.

On the 19th, after the Aana party had abandoned a position, the main battle was fought and the men of Aana were driven back as far as Mulifanua and beyond. On the 20th, before any reliable intelligence concerning the result of the battle had been received, the consuls had a conference at Saluafata, in Atua, lasting several hours, with the Atua chiefs, who were finally persuaded to defer their so-called peaceful entrance into the municipal territory to a future time, in return for which we promised them that we would do what we could to bring about a general peace.

How many dead and wounded there were after this uprising is not certainly known. Twenty-one wounded men were sent by the Government party to Apia for medical treatment, from which it may be inferred that the total number was pretty large. A law, drafted by the chief justice and approved by Malietoa, forbidding the cutting off of heads, was wholly disregarded by both parties during the prevalence of hostilities, as was to be expected.

The conquerors are said to have acted badly in Aana, as is their wont. Many cocoa palms and breadfruit trees are said to have been cut down and the houses of the enemy to have been destroyed.

Tamasese is said to have fought in the front ranks of the rebels. It is denied that he has been regarded by the rebels as a party leader or king, or that he has been treated as such. His participation in the uprising may be in part attributable to the fact that he expected, in case of a successful result, that the German Government would support him and his authority. How he came to take this view, which he expressed in Mulifanua to several white persons, as well as to natives, I do not understand. Neither by me (I have spoken to him but once for a few moments since



my arrival at Apia) nor by any other person in office have any communications been made to him in the above sense. The Government troops found a letter in Aana, which had apparently been written by one of the captives in Mulinuu, in which the writer informs the rebels that the German consul advised them to make a quick attack on Mulinuu and to overthrow Malietoa's Government. The investigation of this matter is not yet ended.

There is now fresh ground for the apprehension that the situation of the whites will become worse every time that there is a new war. Independently of the extensive robberies from which the Mulifanua plantations has suffered this time, the rebels first, and after their departure the warriors of the Government, entered the store belonging to the German Commercial and Plantation Company, and likewise the planter's house. With a view of restraining the Government people from such violations of the rights of foreigners, Malietoa has issued, by the advice of the president, a general prohibition, and subsequently, at my request, a special one. Whether these have done any good is not yet known. At all events these occurrences show what the whites will have to expect if once the rebels come to Mulinuu and Apia as conquerors.

In accordance with the wish of the Government, both warlike factions having suspended hostilities, the consuls have entered into negotiations with the rebels, who are now, for the most part, in the southwest corner of Upolu, for the purpose of conferring with them concerning the restoration of peace and of inducing them to accept the conditions laid down by the Government and the consuls. The victorious Government naturally make some requirements, for instance, that the arms of its enemies shall be surrendered, and makes the evacuation of Aana dependent upon compliance with this requirement.

Should the efforts of the consuls prove unsuccessful, a continuance of the contest by the Atua and portions of the Savaii party in the interest of the rebellion is not improbable.

I have made the foregoing statements to your excellency with regard to the not specially important particulars of the present movement, inasmuch as they clearly show how confused and uncertain the present condition of things still is.

This statement shows that the assertion which has been made in a certain quarter that the war is a private quarrel between a district of Savaii and Aana, and that Aana has been unjustly attacked, is wholly without foundation. The difficulties between Savaii and Aana, which have, it is true, lasted for a long time, have influenced the general situation only in so far as the people of Savaii would otherwise scarcely so soon have obeyed the call of the Government to come to the island of Upolu to assist it against the rebels.

I need not say that these troubles will have an unfavorable influence upon the collection of the Samoan poll tax for this year, and upon the entire financial administration of the Government.

BIERMANN.

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*Mr. Uhl to Baron Saurma.*

DEPARTMENT OF STATE,  
Washington, May 31, 1894.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 26th instant, transmitting a copy of a report from the German consul at Apia, dated March 26, 1894, on the situation in Samoa.

Accept, etc.,

EDWIN F. UHL,  
Acting Secretary.

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*Mr. Gresham to Baron Saurma.*

DEPARTMENT OF STATE,  
Washington, May 31, 1894.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 7th instant, apprising the Department of the recent resolution of the municipal council of Apia, instructing the president thereof to notify the governments concerned of the adoption of the British currency at the rate of 4 shillings to the dollar, thereby exclud-



ing the German and American coinage. You say that the Imperial Government intends to instruct its consul at Apia that in Article VI, section 4, of the general act of Berlin, concluded June 14, 1889, it is expressly provided that besides American dollars and cents other coins may circulate in Samoa at their standard value, and inquire whether this Government has received the resolution to which you refer, and, if so, its position respecting the same.

Your note gives the Department the first intimation it has had of the adoption of such a resolution by the municipal council at Apia. This Department has at no time been able to discern any ambiguity in the language of fourth section of Article VI of the general act, whereby "it is understood that 'dollars' and 'cents,' terms of money used in this act, describe the standard money of the United States of America, or its equivalent in other currencies;" and therefore holds that by the formal engagement of the three powers the money of account in Samoa is based on the United States dollars and cents as units, without prejudice to the circulation of other coinage as currency at its equivalent intrinsic value as compared with the standard units. The arbitrary substitution of either the gold sovereign of England or the 20-mark piece of Germany, with the fictitious value of five United States dollars assigned to it, in excess of its intrinsic value, appears to be a clear departure from the engagement of the general act, and while the terms thereof evidently contemplate the current circulation in Samoa of the gold coin of other countries, such as Great Britain and Germany, it does not admit of the alteration of the standard "dollars" and "cents" units of value which the resolution of the municipal council of Apia, to which you advert, assumes to make.

The U. S. consular representative at Apia will be given copies of this correspondence and instructed in accordance therewith.

Accept, etc.,

W. Q. GRESHAM.

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*Baron Saurma to Mr. Gresham.*

[Translation.]

IMPERIAL GERMAN EMBASSY,  
Washington, June 1, 1894.

MR. SECRETARY OF STATE: The president of the municipal council at Apia has reported to the Imperial Government that the Samoan Government has decided to increase the salary of the native advocate. The aforesaid president has, at the same time, asked that identical instructions be issued by the treaty powers whereby all disbursements of Government money be made subject to his approval, his object in asking this being to prevent this money from being squandered, and also to prevent the treaty powers from being held responsible for any deficits that might thereby be occasioned.

The consuls of the treaty powers have, it is stated, declared that they agree with the view taken by the president of the municipality, which is in accord with the provisions of the Samoa act, while a decision which has in the meantime been pronounced in the case by the chief justice is adverse to it.

As a similar report has probably been received by your excellency from Apia, I have the honor, in pursuance of the instructions of the Imperial Government, most respectfully to inquire whether the U. S.

Government is prepared to instruct the American representative to act in concert with his colleagues in supporting the position taken by the municipal president, and I beg to be informed on this subject as speedily as may be, in order that I may telegraph the reply received to Berlin.

I avail myself, etc.,

SAURMA.

*Mr. Gresham to Baron Saurma.*

DEPARTMENT OF STATE,  
Washington, June 1, 1894.

EXCELLENCY: I have the honor to hand you herewith a memorandum in response to the one you delivered to me on the 28th ultimo relative to the conclusion of the labors of the Samoan land commission.

Accept, etc.,

W. Q. GRESHAM.

*Memorandum.*

In view of the acquiescence of the German Government in the proposal which had received the concurrence of the United States and Great Britain, that the term of the Samoan land commission should be prolonged, and in view of the actual agreement of the three powers to extend beyond the limit fixed by the general act of Berlin the period within which the labors of the land commission were to be concluded, the Government of the United States confesses to some surprise that the Imperial Government should now withhold its concurrence from a simple agreement of detail, and not permit the German and British commissioners to finish their work.

This point will not, however, be further pressed, inasmuch as the U. S. land commissioner, Mr. William Lea Chambers, will return to Samoa as soon as he can complete the personal business which obliged him to return at the conclusion of the period for which he was originally appointed under the general act before the three powers agreed to an extension of time.

DEPARTMENT OF STATE,  
Washington, June 1, 1894.

*Baron Saurma to Mr. Gresham.*

[Translation.]

IMPERIAL GERMAN EMBASSY,  
Washington, June 8, 1894.

MR. SECRETARY OF STATE: In reply to the esteemed note of Mr. Uhl, Acting Secretary of State, under date of April 3 of this year, I have the honor to inform your excellency that the Imperial Government agrees to a further allowance of \$1,000 for the traveling expenses of Chief Justice Ide, in Samoa, and is prepared to assume the third part thereof as its share. After the British Government has expressed itself to the same effect, and the United States have likewise assented thereto, the imperial consul at Apia shall be instructed to confer with his American and his English colleagues respecting the joint payment of the sum in question.

In kindly requesting to be advised of the decision of the U. S. Government respecting this matter,

I avail myself, etc.,

SAURMA.

*Baron Saurma to Mr. Gresham.*

[Translation.]

IMPERIAL GERMAN EMBASSY,  
Washington, June 15, 1894.

MR. SECRETARY OF STATE: I have the honor to submit the following to your excellency in connection with my note of the 1st instant respecting the disbursement of Government funds in Samoa.

Since the British Government has considered it not advisable to oppose the decision of the chief justice in Samoa, on the subject of expenditure of Government funds, the Imperial Government has been obliged, in order to check any further squandering of the same, to authorize the German consul in Samoa to urge conjointly (with his British and American colleagues) economy upon the Samoan Government and to demand that all expenditures be made only with the advice of the president of the municipal council.

Should such action meet the views of the U. S. Government, may I suggest to your excellency to convey appropriate instructions to the American consul in Samoa?

Requesting to be duly apprised of the decision [of your Government] in this matter,

I avail myself, etc.,

SAURMA.

*Baron Saurma to Mr. Gresham.*

IMPERIAL GERMAN EMBASSY,  
Washington, June 16, 1894.

MR. SECRETARY OF STATE: Pursuant to instructions from my Government, I have the honor to submit for your excellency's information, hereto annexed, a copy of a report of April 24 of this year from the imperial consul in Samoa. It confirms the impression that a termination of the continual contentions and the devastation and cruelties incident thereto can not be hoped for in the near future unless vigorous measures be introduced.

According to a cablegram of May 17 of this year from the commander of the imperial cruiser *Bussard*, at Apia, further disturbances were expected, and the latest news that reached San Francisco by the S. S. *Mariposa* announce, as may be known to your excellency, the outbreak of the same.

In requesting to be apprised of the attitude which the U. S. Government assumes toward these unchanged and threatening conditions,

I avail myself, etc.,

SAURMA.

[Inclosure from German consul.]

APIA, April 24, 1894.

I have the honor to submit for your excellency's information the following, supplementary to my report No. 27 of the 26th of last month:

The intervention of the consuls has not been without success, even if they have not been able to restore complete peace and order to the country.

On the 24th of last month we proceeded to the village of Falelatai, occupied by the Aana rebels in the southwest part of the island of Upolu.



The negotiations with the leaders of the rebels led to an agreement whereby the rebels submitted to the following conditions:

Peace shall be restored, and as soon as the Government troops shall have evacuated the territory of Aana and the rioters have returned to their villages, they are to pay the money penalties of their chiefs captured in the former revolt in Mulinuu; they are to build a road through Aana connecting with the one built by the Tuamasaga; they are to deliver to the consuls 50 guns, and the chiefs are to come to Mulinuu, and in the presence of the consuls recognize Malietoa as the only King of Samoa and pay him homage.

Only with the greatest difficulty could we effect the acceptance of these conditions. The surrender of a greater number of guns was not to be obtained, as the insurgents, expecting Atua's assistance, would have chosen a continuance of warfare rather than deprive themselves entirely of their means of defense.

Though final victory would more than likely have been on the side of the Government, it was to our interest, notwithstanding, to bring about as quickly as possible a treaty of peace, even if not so favorable to the Government, in order to be able to withdraw the Government forces from the Aana territory. The latter were camped in the immediate vicinity of the German Mulifanua plantation, and drew their subsistence solely from the products of the plantation, and created much trouble on it. The plantation dwelling was continually surrounded by bands of warriors, annoying the white officials and laborers. At a meeting held at Mulifanua on the evening of the 30th (?) with the leaders of the Government forces, the promise was renewed to us that foreign property should be spared as soon as order would come from the Government to evacuate Aana. Similar to the difficulties which we had to encounter to effect the acceptance by the insurgents of these lenient terms, were the difficulties we had the following day with the Government to make it satisfied with the conditions of peace, as, conscious of victory, it desired to impose more severe ones.

After breaking off the negotiations repeatedly and expressing the threat that a refusal of our wishes would be looked upon as an insult to the treaty powers, and perhaps conduce to deplorable results for the Government and its followers, they condescended to accept our proposals.

Before we went to the general meeting at Mulinuu we had a prolonged interview with the chief justice and the president. The chief justice was sensible of being in an awkward position in consequence of the decapitation law, which he had caused to be instituted. We had pledged to the insurgents that with the compliance with the terms of peace the war should be considered as at an end, and no further judicial proceedings by the chief justice should take place. While we had not considered the decapitation law specially in the premises, we felt that the natives of Aana would reproach the consuls with breaking their word if subsequently the chief justice should institute proceedings against those of their party who had taken part in the decapitations. The Government party would construe such action, as far as it might be affected, as a sign of deepest ingratitude on the part of Malietoa for its services and cause it to separate from him and go over to the opposition party. After a prolonged consultation, the chief justice agreed that it should be proposed to the Government that in the interest of peace, not only with reference to the insurrection itself but also for the violation of separate laws, no criminal proceeding should be instituted on the part of the Government. The chief justice recommended this proposal, and Malietoa and the Government accepted it.

It is understood that Stevenson, the author of the decapitation law, was very angry with the chief justice for his yielding attitude.

After the terms of peace had been accepted by both parties, they were then to be carried out. Here new difficulties arose. It is true the victorious Savaiians soon withdrew from Aana, but not to return to Savaii, but to settle on the frontier of the Tuamasaga toward Aana. The repeated attempts on the part of the president and the consuls to induce them to leave here have not up to date been entirely successful. At first they again demanded that the Aanas should first return to their villages and comply with the terms of the treaty of peace. After it was made clear to them that this could not be demanded of the Aanas, as they could only look upon it as a threat if the Savaiians remained at their frontier, the Savaiian chiefs declared that they would return home as soon as they had celebrated a projected peace festival (*talolo*), and about 100 men should remain at Upolu for the protection of the Government. Before the appointed day for their departure had arrived, rumors were afloat that Atua had decided to make war against the Government in Aana's behalf. This gave new ground to postpone departure.

The arrival also, on the 15th instant, of His Majesty's cruiser *Falke*, and of the British man-of-war *Curacoa* on the 21st instant, have caused no definite change for the better.

The reports from Atua may have been exaggerated at the beginning, but it is certain that the party advocating war has gradually gained ground by the again postponed withdrawal of the Savaiians and made probable a hostile advance on the part of Atua.

On Sunday evening, the 22d, rumor was spread in Apia that the Atua people were advancing, and among the whites and Samoans reigned a perfect panic.

The Government of Mulinuu marched their people to the interior to resist a possible attack from that direction, and requested, through President Schmidt, that the men-of-war should prevent a boat attack by sea upon the seat of Government.

A consultation concerning this took place between the consuls and the commanders as to how far, in case of an attack on Apia and Mulinuu, the whites, that is to say the Government, could rely on the protection of the men-of-war. If the men-of-war could not assist the Government directly, or at least indirectly, then we held that we did not have the right to further insist upon the withdrawal of the Savaiians and thereby to weaken the Government in a possible attack upon it by Atua and the Aana. Then, too, further sacking of the German plantations and robbing of the whites were to be foreseen.

The result of the consultation was that the commanders issued a proclamation which produced a good impression upon Malietoa and the Government, and it is to be hoped will prevent the people of the insurgent districts from advancing upon Mulinuu.

As soon as the Savaiians have left Upolu and the Aana's have retired to their villages, the consuls will again enter into negotiations with them and then with the Atua people, in order to restore general peace. If it will succeed, and how long it will last, is a matter of conjecture. But among all those who understand the situation no doubt prevails that with the departure of the men-of-war, if not before, fresh uprisings will take place. Causes for such the imaginative natives have always at hand.

BIERMANN.

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*Mr. Uhl to Baron Saurma.*

DEPARTMENT OF STATE,  
Washington, June 16, 1894.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 8th instant, wherein you say, with reference to Mr. Gresham's note of April 3 last, that the Imperial Government agrees to a further allowance of \$1,000 for the traveling expenses of Chief Justice Ide in Samoa and is prepared to assume the third part thereof as its share. You add that, after the British Government has expressed itself to the same effect, and the United States have likewise assented thereto, the imperial consul at Apia will be instructed to confer with his American and British colleagues respecting the joint payment of the sum in question.

On the 28th ultimo the British ambassador communicated the willingness of the British Government to pay its share toward this additional allowance to Mr. Ide, and said that, as soon as he should receive an intimation from this Department that the German Government had likewise assented thereto, he would transmit hither the sum of \$333.34, being the share due from Her Majesty's Government.

I shall accordingly advise Sir Julian of the favorable decision of the Imperial Government, and suggest that, instead of sending hither the share of Her Majesty's Government, as he expressed an intention of doing, the foreign office at London be requested to instruct the British consul at Apia to confer with his American and German colleagues upon this subject and each draw simultaneously upon their respective Governments for the sum of \$333.34 in United States money or its equivalent.

If you will have the kindness to see that the German consul at Apia is so instructed, I will give the necessary directions to Mr. Blacklock.

Accept, etc.,

EDWIN F. UHL,  
Acting Secretary.



*Baron Saurma to Mr. Gresham.*

[Translation.]

IMPERIAL GERMAN EMBASSY,  
Washington, July —, 1894.

MR. SECRETARY OF STATE: I have the honor, in obedience to instructions received, to inform your excellency that the Imperial Government has received a telegram which was handed in for transmission at Apia on the 15th ultimo, it having been sent by the senior officer of the German South Sea station, according to which the imperial cruiser *Bussard* and the British war ship *Curacao* have taken active measures against the rebellious Atua tribe, in consequence of which that tribe, on the 25th of May, surrendered eight chiefs and fifty muskets to the war ships. The telegram further states that a fresh war has in the meantime broken out between the Government and the Aana tribe.

I avail myself, etc.,

SAURMA.

*Baron Saurma to Mr. Gresham.*

[Translation.]

IMPERIAL GERMAN EMBASSY,  
Washington, July 27, 1894.

MR. SECRETARY OF STATE: Adverting to the note of the 16th ultimo from Mr. Uhl, Acting Secretary of State, concerning the increase in salary of Chief Justice Ide in Samoa, I have the honor to inform your excellency that the imperial consulate at Apia has been instructed to pay to Mr. Ide \$333.33 $\frac{1}{3}$ , the Imperial Government's share of the additional traveling expenses of \$1,000 which has been allowed him.

Accept, etc.,

SAURMA.

*Pro memoria.—From German Embassy, August 6, 1894.*

The foreign office at Berlin has just received a telegraphic report from the imperial consul at Apia with regard to the disturbed political situation in the Samoan Islands. It appears from this report that while the uprising is far from being abated the position of the Government weakens from day to day; that the robberies committed on the property of the white residents increase, and that the natives are in such a state of want and poverty that there seems to be no hope for the collection of taxes.

The British admiral has visited Apia, but his presence did not materially promote the cause of peace. The King, Malietoa, has again addressed a request to the consuls for the disarmament of the natives, but to obtain this result the presence of more men-of-war in Samoa would be absolutely necessary.

This embassy has been instructed to bring these facts to the knowledge of the United States Government, and to request that while two cruisers of the Imperial German navy are at this time stationed in Apia the United States Government may likewise dispatch two men-of-war to Samoa, in order to bring about a complete disarmament of the native forces.

The Imperial Government is of the opinion that action has to be



taken immediately and that warlike operations ought to be successfully concluded before the approach of the cyclone season, known to be highly dangerous to navigation.

IMPERIAL GERMAN EMBASSY,  
Washington, August 6, 1894.

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*From the German Embassy, August 28, 1894.*

#### TRADE AND COMMERCE IN SAMOA.

When the statistics of the trade and commerce of Samoa in the year 1893 are considered the preponderance of the German interest in the trade of Samoa, as compared with those of other States, becomes constantly more evident.

German capital and German enterprise control the trade of Samoa. The Germans are, however, in consequence of this the ones who suffer most from the constant political disturbances of the country. They alone own plantations there, and during every war or insurrection, those chronic diseases of Samoa, those plantations are exposed to plunder and devastation. The exportation of dutiable goods is in the hands of the Germans exclusively. In the year 1892 the English exported 38 per cent of the goods that were exported, but in 1893 they exported nothing at all. The exportation of nondutiable products is so unimportant that it need not be considered; for the year 1893 there was probably nothing to mention in this line save the copper and other material that belonged to the two American war ships *Trenton* and *Vandalia*, which were wrecked during the hurricane during the year 1889.

In two respects only do foreign interests appear to exceed German interests in importance. In the first place, inasmuch as, according to the recent statistics, 57 per cent of the imports were from Australia, while only about 22 per cent were from Germany. In this connection, however, it should be borne in mind that of the goods imported from Australia, many were originally from Germany or other European countries. The second respect in which Germany is behind America and England, is navigation. Exportation takes place almost exclusively in sailing vessels, and, together with large quantities of unpacked goods (such as grain etc.), much wood from America and coal from Australia are imported in such vessels. The postal service is performed and incoming freight is for the most part brought in by American and British steamers. Yet the great amount of tonnage by which America and England are consequently represented in statistical reports is not to be considered as evidence of import interests. The mail steamship companies, the Oceanic Steamship Company, of San Francisco, Cal., and the Union Steamship Company, of Auckland, for instance, whose steamers call at Apia, are so far from considering these calls lucrative that they assert that they derive no profit therefrom, but rather incur a loss. They consequently received an annual subsidy of \$1,500 while the Government and municipality of Samoa were able to pay it, and are still exempted from paying pilotage and port charges. Even if these complaints are exaggerated, the profit is, at all events, so small, that it is not worth considering in a comparison of the interests of the Germans with those of England and America.

The statistics of trade and commerce that are given below are based upon those prepared by the Samoan customs authorities, which, even if they are not absolutely correct, give a relatively clear and accurate statement of the interests of the different nations. The money referred

to is the gold dollar, which is the money of account in common use in Samoa.

The value of the imports in the year 1893 was \$330,193, as against \$336,594 in the year 1892. Of this amount, goods to the value of \$73,678 in 1893 and \$71,704 in 1892 were imported from Germany.

A surprising picture of the great importance of the German, as compared with the non-German firms, is shown by the following statement, from which, at the same time, the absolute increase of German imports appears:

The German imports for the year 1893 amounted to \$182,413, or 55.2 per cent of the whole. The German imports for the year 1892 amounted to \$159,077, or 51.6 per cent of the whole.

The non-German imports amounted in 1893 to \$147,780, while in 1892 they amounted to \$150,828; that is to say, the value of German imports increased by \$23,337 while that of non-German imports decreased by \$3,048.

The exportation of dutiable products, as has already been remarked, has been in German hands exclusively. The value of the exports increased from \$121,676 in 1892 to \$153,005 in 1893; the value of German exports from \$75,449 in 1892 to \$153,005 in 1893; that is to say, more than 100 per cent.

There are no complete statistics concerning the exportation of those productions of the country that are not subject to an export duty. This amounts to so little, however, that it would probably make no appreciable change in the aggregate of the exports.

The payment of duties and taxes likewise show the preponderance of German interests.

The Germans paid:

	Amount.	Per cent.
For import duties .....	\$11,861	63.8
For export duties .....	3,340	100
For import and export duties .....	15,201	68

The English paid 10.6 per cent of the customs duties and the Americans 9.7 per cent.

Of the entire amount of the taxes (exclusive of customs duties):

	Amount.	Per cent.
The Samoans paid .....	\$20,948	70
The Germans paid .....	4,781	35.9
The English paid .....	2,419	8.1
The Americans paid .....	684	2.3
Persons of other nationalities paid .....	1,144	3.7

Of the entire amount of the taxes and customs duties, as levied in pursuance of the Berlin treaty; that is to say, of the entire expense of the Government of Samoa in the year 1893:

	Per cent.
The natives paid .....	40.2
The Germans paid .....	38.3
The English paid .....	9.2
The Americans paid .....	5.4
Persons of other nationalities paid .....	6.9

With regard to the future of the Samoan trade only this much may be said with confidence, that it can not be developed, but is more likely to retrograde, so long as political affairs remain in their present condition. The joint control of the treaty powers is not adapted to effecting an improvement in the existing state of affairs, or to protecting the plantations of the Germans from wholesale robbery and pillage. When war prevails in Samoa, almost the entire population of the districts in which it prevails—men, women, and children—abandon their villages, the natural consequence of which is that, in the abandoned localities, the cultivation of all esculent plants, especially taro, is neglected, and that, in the districts occupied by the hostile parties, the provisions found are consumed in the most wasteful manner, when they belong to the enemy, and are even wantonly destroyed, so that in a short time the only articles available as food for large bodies of natives are cocoanuts (which, under ordinary circumstances, are made into copra) and the products of the German plantations. The copra trade is thus brought to a standstill, the yield of the plantations is checked, the ability of the natives to purchase is diminished, and both exportation and importation languish.

*From the German Embassy, September 12, 1894.*

[Samoa Times of June 30, 1894.]

#### OUR IMPORTS AND EXPORTS.

The following figures, under different headings and in detail, have been furnished to us by the courtesy of the collector of customs, Mr. I. B. Hay. We publish only the totals:

1893.

#### *Imports.*

	Special duties.	Ad valorem.
German .....	\$29,477	\$152,918
British .....	1,956	58,504
American .....	3,264	40,519
Other nations .....	3,907	39,650
Total .....	38,604	291,589

#### *Import duties paid by different nationalities.*

	Specific.	Ad valorem.	Total.
German .....	\$9,109.40	\$2,751.85	\$11,861.34
British .....	1,204.19	1,163.19	2,367.38
American .....	1,368.37	800.71	2,169.08
Other nations .....	1,703.36	789.05	2,492.41
Total .....			18,890.21

#### *Produce exports.*

	Pounds.
German:	
Copra .....	10,310,500
Cotton .....	156,312
Coffee .....	17,731
Total .....	10,484,543



*Value of exports—Produce and goods.*

German.....	\$170,481
British.....	519
American.....	398
Other nations.....	233
Total .....	171,631

*Export duties paid by different nationalities.*

German:	
Copra.....	\$3,221.82
Cotton.....	164.13
Coffee.....	42.56
Total .....	3,428.51

*Amounts paid by different nationalities for licenses and taxes to the Samoan Government and municipality.*

	To Gov- ernment.	Tomunic- ipality.
German.....	\$2,686	\$2,095
British.....	859	1,560
American.....	141	543
Other nationalities.....	385	759
Samoan natives.....	20,948	
Total .....	25,019	4,957

*Memorandum from the German Embassy, September 8, 1894.*

According to a report from the Imperial German consul at Apia, dated July the 16th, of this year, Mr. W. Blacklock, United States vice-consul-general in Samoa, was at that time still without instructions from the Department of State upon the subject of the proposed joint notification to be addressed by the representatives of the three treaty powers at Samoa to the chief justice and the president of the municipal council with regard to the municipal president's right of veto in questions relating to the disposal of public funds.

It further appears that Her Britannic Majesty's consul at Apia reported to Lord Kimberley, under date of July 14, that the chief justice has informed Mr. Cusack-Smith in writing of his readiness to accept such a joint instruction from the treaty powers as binding upon himself and upon the Samoan Government, and considers it to be of importance that the decision of the United States Government should be communicated to their consular officer as speedily as possible.

To this question, together with the decision regarding the increase in the salary of the natives advocate, referred the notes addressed by this embassy to the Department of State under date of June 1, June 15, and July 9, of this year, to which no reply has yet been obtained.

As in the note of June 1 the favor of an early communication of the view held upon this subject by the United States Government was requested, in order to transmit such decision to the foreign office at Berlin by telegraph, this embassy has again been instructed to request the United States Government for a decision in the matter and for the issue of telegraphic instructions to the United States representative at Apia in relation thereto.

GERMAN EMBASSY,

*Washington, September 8, 1894.*

*Baron Saurma to Mr. Gresham.*

[Translation.]

IMPERIAL GERMAN EMBASSY,  
*Washington, September 10, 1894.*

MR. SECRETARY OF STATE: I have the honor to herewith transmit to you for your advisement a copy of a new report from the Imperial consul at Apia of July 16, 1894, together with two inclosures relating to the political situation in Samoa. The subjoined communication of July 13, 1894, from Mr. Schmidt, president of the municipal council, to the consuls of the treaty powers, imparts valuable information with respect to the critical condition of the Government's finances.

I must add to the report of Mr. Biermann, the Imperial consul, that according to telegraphic advices which in the interval have been received at the chief commandery of the Imperial navy in Berlin from the senior officer of His Majesty's ships of the Australian naval station, dated from Apia, August 9, 1894, it was intended by cooperation of the war vessels to support the Samoan Government troops in an attack, planned for August 11, 1894, on the Atua defenses.

I avail, etc.,

SAURMA.

[Inclosure 1.—Translation.]

*Report of Imperial Consul Biermann.*

*APIA, July 16, 1894.*

I have the honor to submit to your excellency the following concerning the political condition in Samoa:

The disturbances continue as before, and a cessation of them is at present not to be foreseen. The rumor that the war vessels were only there for the protection of the whites, and not for the support of the Government, gains more and more credence. The number of insurgents is thereby increased in the east and west, while the followers of the Government are slowly but gradually retiring from the scene of conflict and returning home.

The presence of a war ship at Vailele, which in the interest of the municipality is to prevent the passage of the insurgent boat fleet, is perhaps the only reason why the Atuans have not yet advanced upon Mulinuu.

If no unforeseen conditions arise, it is certain that upon the departure of the last war vessel, if not before, the war will be carried into the municipality, and thereby the fate of this Government sealed.

As no Samoan Government has heretofore succeeded through its own strength to maintain itself, so, too, this one will not be able to do so, it being quite immaterial whether the King be called Malietoa, Tamasese, or Mataafa. Each Government, if solely dependent on itself, will have, after a brief period, at least two-thirds of all Samoans against it.

That the war vessels present do not wish to interfere for the restoration of peace is no longer hidden to any Samoan, and thus the insurrection pursues the course of former ones. The country is deteriorating thereunder, the trade of the whites is spoiled, and the Samoans, who neither work nor plant, anticipate, in some districts at least, a famine.

No conflicts of any size have taken place in the preceding month. On both sides a sort of flagging has arisen, and at the present time



the main activity consists in attendance at meetings and at feasts. The Government rests satisfied not to be attacked, and has relinquished for the present any intention of assuming the offensive after its last request that a war ship be sent to Aana was refused.

I have before explained that no advantage could be derived through a requisition for war ships as long as no reliance can be placed in the commanders that they will undertake and carry out a decisive action. Half measures, such as the last expedition to Atua, do more harm than good.

The English commander, as I was only to-day informed by the English consul, is averse to any interference, and as the senior captain of the station possessing in reality the principal voice in all decisions and their execution, the request, even if complied with, might not be carried out with energy and perseverance, which is necessary for success. I recognize the fact that under the difficult local conditions and the prohibition to land troops, of which there are not sufficient, that a success is likely to be dependent upon the hearty cooperation of a Samoan party; yet, I believe, and Malietoa a few days ago assured me of it, that an energetic movement on the part of the commanders would also inspire the adherents of the Government with fresh courage and daring, and induce them to carefully obey the wishes and orders of the commanders. I am not in a position to review the scope of the negotiations of the treaty powers, but just this intentional inactivity on the part of the English and of the American Government, and the continuation of the disturbances, might perhaps necessitate the Imperial Government to assume singly the settlement of affairs and the restoration of peace as our interests primarily demand.

If the English really laid any value in restoring peace and order in Samoa they had from the 8th to the 11th instant the best opportunity to bring the rebels to reason when Admiral Bowden-Smith was here with the flagship of the Australian station carrying a crew of 700 men. But the admiral declared from the beginning that he neither had the order nor the intention to interfere in the belligerent and political conditions, and he even left Apia again without using his influence and one day prior to the arrival of the European mail.

The present situation resembles that of 1892-93, when Mataafa, with the anti-Government party, lay stationed in Malie and rendered the administration by Malietoa and his officials nugatory. The influence and power of the Government does not now reach beyond the boundary limits of the Tuamasaga, and even within the same it is dependent upon the good will of the personal followers of Malietoa.

In the inclosure I have the honor to transmit for your advisement a translation of a writing of the insurgents. The rebellious districts pay naturally no taxes, and a demand that the still faithful adherents of the King should meet this obligation dare not be made through apprehension that even more of them might go over to the enemy. Anarchy, therefore, again reigns and State insolvency again is imminent. Until now President Schmidt has striven successfully to avert indebtedness on the part of the Government, but since the famous decision of the chief justice in the case of the native advocate, in this respect even he has been divested of all power. The promises made and the obligations incurred by Malietoa and the Faipules are hence unqualifiedly binding, and when the State treasury becomes empty debts must arise in the future. The result will be that when more ample means should again flow into the treasury such a number of creditors will present themselves to have their claims satisfied that the means for a



proper administration will not be forthcoming and a participation in the revenues by the better class of natives will not be possible. Then, too, the complaint will again immediately arise that the Samoans do not meet their tax assessments, and fresh dissatisfaction must follow.

In inclosure 2 I have the honor to subjoin for your advisement a copy of a communication by the president to the consuls, from which your excellency may see how people like Gurr understand to utilize the inexperience of Malietoa and his Faipule for the purpose of advantages at the expense of the treasury.

The American vice-consul has not yet received instructions respecting the question relative to the rights which are vested in the president as the treasurer of the Government.

As to the appointment of the native advocate as the representative of the Samoans who desire to contest the decision of the land commission before the supreme court, I have already pointed out in my former reports what drawbacks and expense by such a step would result to the white landowners.

The least that could be asked would be that the whites should also have a representative appointed by the Government, or that each Samoan, before his complaint would be considered by the supreme court, should give security for all damages and expenses that might arise to the other party for suit without any ground.

Summing up these separate facts a very inauspicious picture of the condition here is created, which is further darkened when one considers that amelioration is not to be expected as long as a joint control of the powers remains in force. By making practical use of the rivalries among the Samoan chiefs, five or six ships under one energetic command would not find it difficult to restore a peaceful state of affairs. If even a complete disarmament of the Samoans should not be brought about at once, the supervision of a power, the strict control of imports, and the severe punishment of all convicted of smuggling contraband of war into the country would prevent the keeping up the supply of munition and hence the outbreak of new wars.

BIERMANN.

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[Inclosure 2 with September 10.]

LEULUMOEGA, July 4, 1894.

*To Her Majesty Victoria, Queen of Great Britain, His Majesty the Emperor of Germany, the President of the United States of America.*

YOUR MAJESTIES: We write you this letter with the highest respect for you.

We wish that the following be known to your majesties. It is our earnest and definite opinion, as we know that you wish to make Malietoa Laupepa King.

Therefore, we now declare our true opinion: Malietoa must be deposed, as we no longer wish to recognize him as King.

He has done much evil, and that is the reason why we have now reached this conclusion.

(a) It is now more than twenty years ago since he became King; he has done nothing good for these islands; he has carried on war upon war, and this King has shed the blood of our people.

(e) Samoa is completely impoverished (drained) by the payment of taxes, and this is quite useless as long as we have no good laws as in your civilized countries.

(i) Dislike to the whites is continuously kept awake and increased.  
 (o) The Word of God (missions) also no longer develops favorably in these islands.

He has many other faults and defects too numerous to enumerate. You know that we entertain the hope that you will find a good way to make us happy, as we wish that peace should reign in the land and also with the subjects and citizens of your countries who live in Samoa, and to whom we are friendly disposed.

We pray to the Almighty God that he fulfill our wishes.

May you live, we the Tumua and Pule,

LEULUMOEGB.  
 LE FALEAO.  
 LUFILUFI.  
 AUMTAGI.  
 SAFOTU.  
 MANONO.

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[Inclosure 3 with September 10.]

*President Schmidt to the Consuls.*

MULINUU, July 13, 1894.

GENTLEMEN: I have the honor most respectfully to transmit to you the inclosed copy of the financial statement for the Samoan Government for the second quarter. You will see from it how I have tried to reduce all expenses to a minimum. Further reductions will take place from the beginning of July. So the number of the soldiers kept for the Mulinuu jail will be reduced to five or only to three, notwithstanding the crowded condition of that prison. The chief Samoan judge, whom you allowed \$30 a month, will in future get \$15, though the fines paid in by him very often exceed that sum. I have given up already my Samoan interpreter, and that item will not figure any more in my quarterly accounts. On the other hand, you know that old debts to the amount of about \$600 must remain unpaid. Under these conditions the continued expense of the salary of the native advocate is an especially burdensome thing, the more so as there is neither a prospect of the vacancy in the American land commissioner's place being filled nor a possibility of making use of Mr. Gurr's services in the meantime. Besides this, Mr. Gurr informed me a few days ago that he has not at all given up his claim for a salary of \$200 a month; that he is not satisfied with the resolution of the Faipules rescinding their former resolution by which his salary was increased and reducing it again to \$150, and that he will sue the Government for damages or nonfulfillment of a written agreement.

On my reply that the Faipules, having the right to dismiss him by the shortest notice, seem to have also the right to lessen his salary, Mr. Gurr stated that the Faipules, when appointing him, gave him a permanent appointment ending only at the closure of the land commission, an assertion which was new to me, but whose correctness I have found out by asking the Faipules. Mr. Gurr informed me further that he had been appointed also native attorney (*fautua*) to plead for the Samoans in contested cases going to the supreme court, and that when his salary as a native advocate would cease he would go on in his other function with an adequate salary. I replied that this last matter could not be decided by the Samoan Government without the concurrence of the treaty powers, which might object to natives being officially and gratuitously represented in the land court when the treaty powers' citizens

were not. To this Mr. Gurr replied that this side of the question did not interest him, as at least he could sue the Government for damages if it would or could not employ his services contrary to the former agreement. I have not yet found out if such an agreement exists and if it is binding, as some Faipules told me that Malietoa concluded it without the approval of his chiefs.

I should thank you very much if you would kindly report this development of the matter to your Government and, pending their instructions, would give me your advice.

I have, etc.,

E. SCHMIDT.

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*Mr. Uhl to Baron Saurma.*

DEPARTMENT OF STATE,  
Washington, October 8, 1894.

EXCELLENCY: The United States commissioner on the Samoan land commission reports, under date of September 12, 1894, that the labors of the commissioners can easily be concluded within sixty days from that date, and that there is no necessity for the commissioners remaining in Samoa longer than the actual investigations of the claims may require, only the services of the secretary being needed to prepare the schedule of papers for final delivery to the supreme court.

In view of this statement, I have the honor to suggest that the three Governments cable identic instructions to their respective commissioners that the work must be completed so that the labors of the commission shall end, and all reports and papers shall be forwarded to the supreme court within the time now agreed on—viz, December 31, 1894.

Accept, etc.,

EDWIN F. UHL.

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*Baron Saurma to Mr. Gresham.*

[Translation.]

IMPERIAL GERMAN EMBASSY AT WASHINGTON,  
Washington, November 1, 1894.

MR. SECRETARY OF STATE: I have the honor, referring to the note of the Department of State of December 21, 1893, and to the note of this legation of March 28, 1894, relative to the wife of Mataafa and those of his companions, herewith to inclose a copy of a report (accompanied by a list of names) dated July (June?) 11, 1894, and made by the imperial governor-general at Jaluit, concerning the situation of the Samoan chiefs who are now held there as prisoners.

The governor-general, in his report, advocated the sending of the women from Samoa, and expresses the opinion that Mataafa's wish to have his three sons with him should be granted, at least as regards one of them, viz, Tagoti.

I have the honor, in pursuance of instructions received, to inquire of your excellency whether, under existing circumstances, the United States Government would agree to have the Samoans whose names appear in the accompanying list (provided that they wish it, but with the exception of Tui, Taigafi, and Muliaga, whose removal, in the opinion of the governor-general, is not advisable) removed to the Marshall Islands, and to pay the expense of such removal conjointly with the other treaty powers.

Requesting that I may be favored with a reply, I avail myself, etc.,

SAURMA.



*Report of the Imperial Governor-General at Jaluit.*

JALUIT, June 11, 1894.

I have the honor to make a report to your excellency concerning the accommodations which are afforded to the Samoan prisoners here, and also concerning their mode of life and their conduct.

The prisoners, twelve in number, and all chiefs, with the exception of Tusi Tusi, Mataafa's secretary and servant, are for the present occupying quarters in the vacant lot in the rear of the governor-general's residence, where they have built their huts of native material, in a healthy place. In addition to these men, Mataafa's niece lives there, she having been brought with them when they came here by the German war ship from the Ellice group, and also a Samoan woman who had lived here for some time previous to the arrival of her countrymen. The manner in which the prisoners are lodged, very near to me, where they are constantly under supervision, both by day and night, seems to be the most suitable, notwithstanding the fact that the place is at a considerable distance from the house of the chief of police and from those of the other white men. Moreover, another special policeman, Tarpaulin by name, who is a native of the Ellice group, near Samoa, and who speaks both English and Samoan, came here about three weeks ago for the purpose of interpreting for them and of keeping a close watch upon them. He has built himself a hut next to that of Mataafa and reports to me daily all that takes place in the Samoan camp.

It is rather a difficult matter to furnish the Samoans with an adequate supply of food, inasmuch as many articles of consumption, such as breadfruit, yams, bananas, etc., which they had in abundance in Samoa, are quite scarce here. They complain a good deal of the lack of pork. Still, I do everything in my power to make their privation less irksome to them. Beer is furnished to them on Sundays and all holidays, and now and then they get a pig. Breadfruit is obtained by purchase from the native chiefs and from other islands. Mataafa, who abstains from beer on account of his health, gets a bottle of wine on Sundays and holidays, and occasionally some cigars. None of the Samoans receive any other spirituous liquors. Such other things as they need for their subsistence are furnished to them, on my order, from the store of the Jaluit Company. As they are most skillful fishermen, not a day passes on which they do not return from the lagoon with an abundant mess of fish. Now and then, on special occasions, they receive a present in money from the firm, and also from me. They expect this, particularly when their dances take place and on the occasion of their new year congratulations. Their dances appear rather to be grotesque musical performances. The principal part in these dances is played by the women, the beater of time, and the clown, the latter of whom does all in his power to amuse the spectators by his grotesque leaps and grimaces. Mataafa himself does not take part in these dances, but receives on such occasions the homage of his people. He always makes apologies because the dancing is not better. He attributes this to the fact that he has none but persons who are advanced in life, and who are no longer as agile as they once were.

Mataafa has asked, in case it is purposed to keep him here for a considerable time, that his three sons and the wives of his men may be brought here. The names of these persons will be found in the accom-

panying list. I could only object to having more men sent here who are capable of bearing arms, and to the coming of Tui, the alleged wife of Tagatua (Tagaloa?). This Samoan woman was the wife of a former tavern keeper here, whom she left for the purpose of returning to Samoa. She has the reputation of being an intriguing woman, and her presence here, owing to her relations with the wives of the other chiefs, would be dangerous, or, at least, not desirable. The question of sending the Samoan women here was raised sometime ago, and I think that their presence here could not fail to make the prisoners more contented with their lot. As to Mataafa's sons, he would, I think, be satisfied if he could have the oldest one here in Jaluit.

Mataafa himself and a number of his men are Roman Catholics, while others are Protestants. He is, to all appearances, very sincere in his religious belief. I am also assured of this by Mr. Vassen, who often converses with him on religious subjects and gives him religious comfort. Mataafa holds religious services for his Samoans, in addition to the Sunday service, every morning early and every evening, in the little Catholic church which was purchased some time ago by the Catholic mission here, and Mr. Vassen frequently takes part in these services.

Dr. IRMER.

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[Inclosure A.—Translation.]

*Names of the women and girls whom the Samoan chiefs here desire to have sent to them.*

- |                                     |                                    |
|-------------------------------------|------------------------------------|
| 1. Lealosi, wife of Chief Leiatana. | 6. Tui, wife of Chief Tagaloa.     |
| 2. Tuliloa, wife of Chief Fiaame.   | 7. Siamoa, wife of Chief Mulipola. |
| 3. Taafiu, wife of Chief Lauulu.    | 8. Taevale, wife of Chief Soa.     |
| 4. Palepa, wife of Chief Taumuiga.  | 9. Siaina, wife of Chief Telea.    |
| 5. Taofi, wife of Chief Tupuola.    | 10. Selepa, wife of Chief Sanini.  |

*Names of the girls.*

- |                |                  |
|----------------|------------------|
| 1. Alaimaca.   | 6. Salaevalu.    |
| 2. Talapasias. | 7. Tagi i Malio. |
| 3. Avele.      | 8. Paola.        |
| 4. Sose.       | 9. Tuupu.        |
| 5. Siagiagi.   | 10. Sausua.      |

*Names of Mataafa's sons.*

- |             |              |
|-------------|--------------|
| 1. Tagoti.  | 3. Muliaiga. |
| 2. Taigafi. |              |

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*Baron Saurma to Mr. Gresham.*

[Translation.]

IMPERIAL GERMAN EMBASSY,  
Washington, November 10, 1894.

MR. SECRETARY OF STATE: In compliance with my instructions I have the honor to respectfully transmit for the information of your excellency the inclosed copy of a report of the imperial consul at Apia, dated September 3 last, in regard to the condition of affairs in Samoa.

The contents of the report reawaken the Imperial Government's

apprehension that under existing circumstances the peace concluded with the rebels will afford no assurance of the lasting restoration of tranquillity in the islands.

Accept, etc.,

SAURMA.

[Inclosure with November 19.—Translation.]

*Copy of Report of the Imperial Consul at Apia.*

APIA, September 3, 1894.

Referring to my report No. 64 of the 15th ultimo, I have the honor to state that the Aana insurgents, headed by young Tamasese, have now apparently made peace with the Government, and in the formal Samoan manner declared their submission to, and in the presence of, Malietoa.

After peace had been concluded at Atua on the 13th and 14th ultimo, Captain Scheder was especially desirous that one should also enter at once into negotiations with the Aanas, and that peace should be restored there without delay.

Captain Gibson desired first to go to Pago Pago to coal; but apart from that declined further action for the present, inasmuch as he shared the opinion of the German commander that the forcible intervention in Aana was prohibited by the authorities. Captain Scheder's request whether the consuls would not go to Aana to act in the interest of peace I declined, in agreement with the other consuls. We were of the opinion if, under the circumstances, that is to say, if to the question which the insurgents would be certain to put to us first, whether the war ships would intervene, that is, if necessary fire upon them, we were not able frankly to say yes, that our labor would be fruitless, if indeed not detrimental.

Only then could renewed negotiations with the Aanas have some prospect of success if the expression of a desire therefor should emanate from them.

After Atua had quieted down, all Government troops proceeded to Aana—in the first place to rest from the hardships of their march to Atua, then to commit thefts on the plantations and to hold meetings. This flooding of Aana with many hungry bands of soldiers had at least the beneficial result to render the gathering of supplies by the insurgents for their fort more difficult. The chiefs in Atua heard, possibly, also that the Aanas would, notwithstanding, be finally suppressed, and both parties therefore had a daily increasing interest to bring about peace.

On August 23 His Majesty's cruiser *Falke* arrived at Apia from Saluafata, where she was stationed to reconnoiter the Atuans, and brought the intelligence that according to Atuan statements Aana, as a part of the Tumua party, would recognize for themselves the treaty of peace concluded by the Atuans with Malietoa and their declared submission.

As the *Falke* was to return the same day to Atua, an immediate conference took place between the commander, the consuls, and President Schmidt. The result thereof was that it was decided to essay without a threat of violence to obtain for the Government the most favorable peace possible, as an enforcement of the same according to the declaration of the commanders was practically precluded.

On the evening of the 25th Malietoa called to inform me that he, too, had heard from a reliable source that the Aanas desired to make peace.



The same intelligence was received by Captain Scheder, who had sailed on the 24th with the *Bussard* for Aana in order personally to reconnoiter the insurgents' position. As he also recognized the danger to which the German plantation would be exposed from a protracted warfare, he sent immediate advices to Captain Gibson and myself, and strongly recommended that the *Curacao* should be sent to Mulifanua in order to assist in restoring peace, and to bring about, as in Atua, submission to Malietoa. The *Curacao*, with President Schmidt on board, left Apia on Monday, the 27th, and on the 28th Tamasese and the other insurgent chiefs met Malietoa on board and declared their submission to him. The conditions of peace were the same as those in Atua.

On the 29th and 30th of August, after the 100 rifles had been delivered up to the war vessels, and the greater part of the Government troops had left Aana, and the Aanas themselves had largely dispersed to their villages, the war vessels returned to Apia.

That peace will be lasting is hardly to be presumed. The lesson given by firing on Atua was not sufficiently sharp and incisive to leave a lasting impression upon the forgetful Samoan temperament. In fact, conditions are now again existing which show that peace will not last and is not seriously intended. Malietoa and his chiefs are convinced that the departure of the war ships will be the signal for the renewal of the war. The circumstance that the representatives of the villages of all the districts which were opposed to the Government have already withdrawn to Atua to hold meetings, and that both Atua and Aana have forbidden the inhabitants of those districts which fought on the side of the Government to return to their villages, and have already partly burned down the latter, indicate that a real reconciliation of the parties is still far off. The people of Atua and Aana remain by force of necessity in the neighborhood of Apia, and unfortunately bring themselves into unpleasant notoriety by committing thefts in the plantations. I should like to point out, in especial, that in case of a renewal of the war, the attitude of Savaii may be considered doubtful, and that the Tuamasagas alone could hardly oppose the attack made from both sides. The result would be an overrunning of Apia by rebel hordes.

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*Baron Saurma to Mr. Gresham.*

[Translation.]

IMPERIAL GERMAN EMBASSY,  
Washington, D. C., November 11, 1894.

MR. SECRETARY OF STATE: Referring to my note of the 18th ultimo, I have the honor most respectfully to inform your excellency that, according to information received, an ordinance was promulgated on the 14th of August for the municipal district of Apia which places the importation of arms and ammunition under control. I take the liberty herewith to inclose a copy of this ordinance, and also one of the report made by the imperial consul at Apia on this subject, under date of September 7, 1894.

It appears from this report that the ordinance was adopted in opposition to the wishes of the municipal council, and that the latter is making an effort to frustrate the purposes of the ordinance by the issuance of supplementary orders which restrict the right of search. It

would seem to be proper to instruct the consuls of the powers to counteract these efforts.

I would request your excellency to inform me whether the United States Government is prepared and disposed to instruct its representative at Apia to issue a suitable ordinance for such persons as reside outside of the municipal district and are subject to the jurisdiction of the American consul, in the same manner as this is proposed to be done by the imperial consul in accordance with his draft, a copy of which is inclosed. I would respectfully remark that the imperial consul at Apia has been instructed to act in this matter in concert with his American and English colleagues, and to proceed simultaneously with them; and I would request that I may be informed of the decision that shall be reached.

Accept, etc.,

SAURMA.

[Inclosure.—Translation.]

#### REPORT.

APIA, *September 7, 1894.*

I have the honor most respectfully to inform your excellency that, since the middle of last year, 380 guns have been taken from the Samoans. Unfortunately, however, the delivery of arms and ammunition to the natives has not yet ceased, so that no great advantage can result from the seizure of the arms which have been taken from them.

It is asserted that a direct illicit trade by vessels is carried on between Tonga and sundry ports of Upolu, in addition to that which takes place through Apia, the legal port of entry, and that the natives are thus supplied with munitions of war. It is likewise supposed that an illicit trade is carried on by vessels between places outside of Samoa and Tutuila and Manua. It has not, as yet, been possible to ascertain the truth of these rumors.

Although the Berlin treaty has now been in force for more than four years, and although, since the retransfer of the control of the custom-house to the municipality, more than a year has elapsed, it has thus far been impossible to cause the adoption of a customs ordinance.

The customs authorities are still without any legal authority to prevent even the most barefaced smuggling by means of a control that is at all efficient. President Schmidt prepared a customs ordinance several months ago and referred it for adoption. That ordinance has gradually passed through all stages of discussion, and nothing was necessary save a resolution with regard to the place of landing for dutiable goods, when the matter was again brought to a standstill.

The municipal council has struck, on account of the alleged violation of its privileges, and has resolved that it will pass no more resolutions for the present.

The cause of this resolution is the following:

President Schmidt desired the adoption of the proposition which had been previously made by me to place the control of the importation and sale of arms in one hand, at least for the municipality.

After a discussion with the chief justice and myself, he proposed a draft of an ordinance having this for its object. The municipal council adopted it with some alterations, and the consular board did the same. The municipal council did not adopt the amendments of the consuls, and thus the regulation in question was laid before the chief justice for alteration and final decision. (Sec. 3, Art. V, of the Samoa act.)



The chief justice approved the alterations made by the consuls and added several more himself. One of his alterations had reference to the right of search, which, according to the draft, could be exercised in places of business only, and not in places occupied as residences. That the right of search, with this restriction, is utterly nugatory, must be evident to every one. The merchants, with the exception of the Trade and Plantation Company and of Frings & Co., have their places of business and of residence in the same building, and closely connected with one another. It is often difficult to decide whether a place belongs to the dwelling or to the store. All illicitly imported guns and munitions of war would, of course, no longer be stored in the places of business, but in the dwelling places, where they would be safe.

In the consular board the proposition so to generalize the right of search as has been done by the chief justice would have been opposed by the British consul. I consequently thought it best not to raise the question at all in the discussion of the consuls, but to leave it to the chief justice for settlement.

The municipal council now declared that the chief justice had not been authorized to change the ordinance, but only to decide whether the amendments of the consuls were to take effect or not; and it therefore resolved that the ordinance, which had been definitely rejected, should not be published, but that it should be "indefinitely laid upon the table."

After this evidently illegal resolution, by which a definitively adopted law was to be prevented from taking effect, had again been rejected by the consular board the municipal council resolved to strike until its privileges should be recognized.

This resolution was also rejected by the consuls, so that the ordinance had to be published with the consent of the chief justice.

An ordinance was now again adopted by the municipal council which was to bear the short title of "Arms and ammunition ordinance, 1894, amendment ordinance." In this draft the right of search was made dependent upon so many conditions, which had to be previously fulfilled, that an accused person had all the time that he needed to put the arms, etc., which formed the object of the search, out of the way.

The English members of the municipal council, inasmuch as this ordinance had not been approved by the consular board, did not take part in the session of the municipal council, which was held during the early part of this month. Consequently, the resolution concerning the the customs ordinance was postponed. Whether the gentlemen will carry out the intention which they have expressed of resigning their office in case the ordinance with the short title is not adopted time will show. Should they do so the sole result will be a loss of time and a useless outlay of money for the new elections.

In order to harmonize as far as possible the rules concerning the importation and sale of arms and ammunition for the Germans who reside outside of the municipality, and the ordinance which is now in force in the municipality, I have drawn up, after consulting with President Schmidt, the inclosed police ordinance, a copy of which is herewith inclosed.

I further inclose a copy of the new ordinance of the municipality and one of the police ordinance, which was adopted some time ago for the Germans residing outside of the municipality, and I respectfully request your excellency to examine the draft and to authorize me to publish it.

BIERMANN.



[Inclosure A.—Translation.]

## POLICE ORDINANCE.

In pursuance of section 4 of the law of the Empire of July 10, 1879, the following ordinance is issued for subjects of the Empire and for German protégés, and the police ordinance of March 26, 1890, is hereby revoked.

SECTION 1. The importation into the Samoan Islands of arms and ammunition, and materials and appliances for the manufacture of ammunition, is hereby prohibited. From this prohibition are excepted:

(a) Guns and ammunition for sporting purposes, for which written permission shall have been previously obtained from the president of the municipal council.

(b) Small arms and ammunition, carried by travelers as personal equipment.

SEC. 2. The sale, barter, or delivery otherwise of the articles specified in section 1 to Samoans or other South Sea Islanders sojourning or residing in Samoa, or the abetment of any of these acts, is hereby prohibited.

SEC. 3. Every subject of the Empire or German protégé must, when required to do so, furnish information to the imperial consul with regard to the number or quantity of the articles specified in section 1 that are in his possession, and also with regard to the purpose for which they are used or are to be used.

SEC. 4. Any infraction of the prohibitions contained in sections 1 and 2, and any failure to comply with the requirement mentioned in section 3, shall render the person guilty of such infraction or failure liable to a fine in each case not exceeding 150 marks, or to imprisonment for six weeks.

SEC. 5. The foregoing provisions shall not be applicable in cases in which subjects of the Empire and German protégés are subject to the arms and ammunition ordinance of 1894 of the municipal council.

SEC. 6. This ordinance shall take effect fourteen days after its promulgation at Apia.

The imperial consul,

APIA, ———, 1894.

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*Baron Saurma to Mr. Gresham.*

[Translation.]

IMPERIAL GERMAN EMBASSY,  
Washington, November 12, 1894.

MR. SECRETARY OF STATE: I have the honor, in pursuance of instructions received, to invite your excellency's attention to the following matter:

In a memorial bearing date of September 10, 1894, Chief Justice Ide, of Samoa, complained that he had not been invited to attend a conference held August 23, 1894, between the consuls, the commanders of the war vessels lying in the harbor, and the president of the municipality, in which conference the subject of the interference of the war ships and the measures to be adopted for the restoration of quiet and order on the islands were discussed. Mr. Ide assumes that he is jointly responsible, on the ground of the Samoa act, for the preservation of order in Samoa, and that he must consequently claim the right to be present at discussions of the kind in question. He makes a general complaint at the same time that he has been neglected by the consuls in business matters. The British consul especially, he says, renders the performance of the duties of his office difficult, inasmuch as he frequently fails to show proper consideration for him.

Presuming that your excellency has likewise received a copy of the chief justice's memorial, I have the honor to inquire what attitude the United States Government proposes to assume with regard to Mr. Ide's complaints.

As to the view taken by the Imperial Government, it regards this case as furnishing additional evidence that a many-headed administration of affairs in Samoa is in the long run untenable, and that it must

lead to constant friction, even supposing the officials there to be guided by the most upright and conciliatory feelings. It appears beyond a doubt from the chief justice's memorial that in the conduct of his office his intentions are the best, but, on the other hand, it appears therefrom with equal clearness that under present conditions a well-ordered administration of affairs and a well-ordered situation will not be reached.

In the matter itself, and as regards the present point in dispute, the Imperial Government is inclined to consider the view taken by the consuls of the treaty powers as the right one. This view is shown by the correspondence between the consuls and the chief justice, a copy of which is herewith inclosed. A right of the chief justice to be present at all political discussions between the representatives of the Governments, including the Samoan Government, does not exist, and it is the less possible to deduce any such right from the Samoa act, which explicitly defines the competency of the chief justice, inasmuch as that act makes no provision for such discussions. Leaving this out of the question, however, it would, in the opinion of the Imperial Government, be exceedingly hazardous on practical grounds to add a fifth to the four political officials who are already in Samoa.

Should the United States Government agree with this view of the case it might be well so to inform the chief justice.

With respect to the course pursued by the British consul, to which reference is made in the chief justice's memorial, the Imperial Government has received the impression, both from the memorial and from other sources, that that officer is less anxious to adjust existing difficulties than are the German and American representatives.

The imperial ambassador in London has consequently been instructed to bring the matter of again making it Mr. Cusack-Smith's duty to maintain a good understanding to the attention of the British Government.

Begging to be favored with a reply,  
I avail, etc.,

SAURMA.

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[Inclosure 1 of November 12.—Memorial.]

*Chief Justice Ide to the Consuls.*

APIA, SAMOA, August 24, 1894.

GENTLEMEN: I am officially informed that a meeting of the three consuls, the president, and the captains of the English and German war ships stationed at Samoa was held at Mulinuu on the 23d instant, for consideration of the situation and devising remedies therefor, which meeting was in conference for several hours. One of the officials in attendance came a long distance to attend the meeting and no more time is required to give me notice of such conference than to give the president notice. Having been charged by the three treaty powers with important duties relating to the punishment of crime and the promotion of good order in Samoa, and having been held responsible in part for the securing of those ends, and having functions to perform in strict pursuance of my official duty which are materially affected by the course adopted at such conferences, I hereby enter my protest against such conferences being held without notice in advance to me and against the determination of questions relating to the peace and good order of Samoa without my having an opportunity to be present. No notice was given me of the meeting above referred to.



Before my acceptance of the position of chief justice I was officially assured that I should receive the cordial support and cooperation of the foreign officials in Samoa. I am unable to regard the course above stated, which has occurred several times before, in substance, as such cooperation. Matters have heretofore this year been determined by the consular board without the slightest conference with me which have directly invaded my jurisdiction, in the strictest judicial sense, and which have occasioned serious embarrassment. If I should proceed directly in the line of the treaty to decide the questions now pending in a sense under sections 4 and 6 of Article III and to recommend legislation upon the questions of good order, under section 8, without conference, it would be almost certain that my action would bring divided counsels and conflicting procedure. The lines of authority between different officials under the treaty are so obscurely defined that interfering action is inevitable unless by mutual previous conference a common course is arranged. It is needless to say that I can not regard that as a conference which consists in previous determination of the matter for consideration and then informing me by letter of such determination. The situation is sufficiently difficult to require the best wisdom of all in authority here acting in unison.

I will only add that this is a matter which, in my judgment, might and ought immediately to be arranged satisfactorily and pleasantly here, without requiring application to the powers. I do not address this letter to the president, because he has assured me that he agrees with me in my position entirely. I shall, however, furnish a copy of it to Captain Gibson, as senior officer of the men-of-war now in Samoa in the interest of the treaty powers, but in my letter to him inclosing the copy I make no comment or request for action or reply.

I have, etc.,

HENRY C. IDE,  
*Chief Justice of Samoa.*

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[Inclosure 2 of November 12.]

*The Consuls to Chief Justice Ide.*

APIA, SAMOA, September 5, 1894.

SIR: Your letter of the 24th ultimo, in which you are pleased to enter your protest against such conferences, as that referred to of the 23d, being held without notice in advance to you and against the determination of questions relating to the peace and good order in Samoa without your having an opportunity to be present, was duly received, and we beg to inform you that with regard to the meeting of the 23d ultimo, to which you especially refer, we had no part in arranging it, but were ourselves hastily invited to it, and therefore, if you were in fact entitled to be of right present, which we do not concede, we are guiltless of any real or implied omission or lack of consideration in the matter.

We further beg leave to assure you that, so far as rests with the undersigned, acting as a consular board, or as representing our respective Governments, every assurance given you officially or otherwise that you should receive the cordial support and cooperation of the foreign officials in Samoa shall be, in the line and scope of your authority, sincerely made good in the letter and in spirit. We much regret that



you are unable to regard what you term the course stated, and which, as you correctly state, has occurred several times before in substance, as such cooperation.

We must dissent from your declaration that matters have heretofore this year been determined by the consular board, without the slightest conference with you, which have directly invaded your jurisdiction in the strict judicial sense, and which has occasioned serious embarrassment.

The conference referred to of the 23d ultimo between the three commanders of the men-of-war and the president, to which the undersigned were invited, was called to consider—

First. The request from the King that the war ships should cooperate with and take part in the operations of his army against the rebels in Aana in the same manner as they had done in Atua.

Second. A complaint from the King that a part of the late rebels in Atua had broken the conditions of peace lately concluded with the commanders of the men-of-war.

Third. A communication from the Tumua of Leulumoega (Aana) in regard to the action of the war ships, and lastly, a message from the people of Lufilufi (Atua) stating that the peace made with Atua was binding also by Samoan custom upon Aana.

All these several matters were questions directly pertaining to the conclusion of peace in one district and the prosecution of war in the other.

After careful examination of every part of the Berlin general act, in which the rights, powers, and jurisdiction of the chief justice are prescribed, we are unable to perceive any right on the part of the chief justice to be present at such a conference, however agreeable it might be that he should be present as a private gentleman on a like or other occasion.

The line of precedent, we beg leave to suggest, since the formation of the present Government is in support of the position here assumed, and we can not admit that the friction which has been experienced, and the difficulties so often encountered in the administration of the internal affairs of this Kingdom, wherein, as you say, the lines of authority between different officials are so obscurely defined, would have been lessened or avoided by the addition of yet another authority, whose jurisdiction in our opinion is, in the midst of all the obscurity that may exist, clearly defined and limited to another and more exalted field.

The supreme court, made up of but a single judge, is, under the treaty, invested in some sense with perhaps the most unlimited jurisdiction conferred upon any court in any country in connection with the various nationalities and in the large number of jurisdictions conferred upon it. We submit that each such jurisdiction is of a legal character, if we may express it, and not political.

We are aware that it is superfluous to remind you that the effort in every country where the judiciary has been made an independent department of the government has been to keep it separate and free from political entanglement.

We do not believe that the three treaty powers, in the effort to provide good government for a people essaying feeble steps in the direction of higher civilization, would, disregarding all the experience of time, have fixed upon them a system repudiated long ago and conspicuously absent in their own constitutions. In our opinion the only instance

where an authority other than purely judicial is conferred upon the chief justice is set forth in section 8, Article III:

The chief justice may recommend to the Government of Samoa the passage of any law which he shall consider just and expedient for the prevention and punishment of crime and for the promotion of good order in Samoa outside the municipal district, and for the collection of taxes without the district.

The adviser of the Samoan Government in all other questions is the president.

The possibility that a political question may ultimately come in a legal form before the supreme court for adjudication is a controlling reason why the chief justice should be so situated as to deal with it impartially and free from any participation in its origin.

In conclusion we beg to assure you, that whenever you wish to have a conference with us we shall always, as heretofore, be glad and ready to comply with your request; but we can not, as stated before, acknowledge as justified by the treaty your claim to be present as of right and heard at the meetings of the consular representatives and the president when purely political affairs are under consideration.

We have, etc.,

JAMES H. MULLIGAN,  
*United States Consul-General.*  
T. B. CUSACK-SMITH,  
*Her Britannic Majesty's Consul.*  
BIERMANN,  
*Imperial German Consul.*

*Baron Saurma to Mr. Gresham.*

[Translation.]

IMPERIAL GERMAN EMBASSY,  
*Washington, November 27, 1894.*

MR. SECRETARY OF STATE: I have the honor, referring to my note of the 1st instant, relative to the wives of Mataafa and his companions, most respectfully to inform your excellency, in pursuance of instructions received, that the Royal Government of Great Britain, according to a note from its chargé d'affaires at Berlin, agrees, subject to the concurrence of the United States Government, that the relatives of the Samoan chiefs who are now held as prisoners at Jaluit be sent to them.

I avail myself, etc.,

SAURMA.

*Mr. Gresham to Baron Saurma.*

No. 13.]

DEPARTMENT OF STATE,  
*Washington, February 16, 1895.*

EXCELLENCY: I have the honor to acknowledge the receipt of your notes of the 1st and 27th of November last and of the 4th instant, in reference to the concurrence of the three Samoan treaty powers in sending to Jaluit and there maintaining the families of the exiled chiefs.

This Government is unwilling to assume one-third of the expense of the maintenance of the wives and children of the banished and imprisoned Samoans on the island of Jaluit, as proposed.

In communicating this conclusion through you to the Imperial German Government, it is proper to inquire how long it is proposed to continue the banishment of Mataafa and his associates. It was, of course, never the intention of the United States to cooperate in their permanent detention in exile, and the indefiniteness of their term of banishment, coupled with the present arrangement for sending their families to join them, prompts the natural inquiry as to the views of the other powers in this regard. If permanent or indefinite banishment be contemplated, this Government must earnestly dissent. In its judgment ample punishment has already been inflicted on the malcontent chiefs; and if, during the considerable time that has elapsed since their deportation, the tranquility of Samoa has not been sufficiently restored to permit of their return to their homes, it may be gravely questioned whether better results may be looked for in the near future, and whether the Government of the United States may, with propriety, longer participate in the expense of their banishment.

Accept, etc.,

W. Q. GRESHAM.



CORRESPONDENCE BETWEEN THE DEPARTMENT OF STATE AND THE  
UNITED STATES EMBASSY AT LONDON.*Mr. Lincoln to Mr. Blaine.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
*London, March 24, 1891.*

Bayett Michael Hazzard appointed British member Samoan land  
commission last July. Now in Samoa.

LINCOLN.

*Mr. White to Mr. Foster.*

No. 852.]

LEGATION OF THE UNITED STATES,  
*London, November 30, 1892.*

SIR: Referring to your instruction, numbered 970, of the 21st instant,  
which reached me this morning, with respect to the rights of the United  
States in the harbor of Pago Pago, I have the honor to acquaint you  
that I have just had an interview at the foreign office with the Earl of  
Rosebery, to whom I communicated your views on the subject, by  
reading to his lordship your instruction, of which I left a copy with him  
at his request.

Lord Rosebery promised to give the matter his prompt attention.

I have, etc.,

HENRY WHITE.

*Mr. White to Mr. Gresham.*

No. 961.]

LEGATION OF THE UNITED STATES,  
*London, April 4, 1893.*

SIR: I have the honor to transmit herewith for your information a  
letter from Mr. Robert Louis Stevenson, the well-known author, to the  
Times newspaper, in which it is published to-day, inclosing a regulation  
issued by the British high commissioner for the western Pacific "For  
the maintenance of peace and good order in Samoa."

It would appear from Mr. Stevenson's letter that the regulation in  
question has been promulgated in consequence of certain letters of his  
to the Times on the subject of Samoa, most, if not all of which have  
been forwarded at different times to your Department by this legation.

I also inclose a Berlin telegram which has appeared in the Standard  
newspaper announcing the resignation of the chief justice of Samoa,  
Baron Cedererantz.

I have, etc.,

HENRY WHITE.

[Inclosure 1 in No. 961.]

[The Times, Tuesday, April 4, 1893.]

*Sedition in Samoa.*

TO THE EDITOR OF THE TIMES:

SIR: Will you allow me to bring to the notice of your readers the sedition (Samoa)  
regulation, 1892, for the western Pacific and, in particular, the definition in section 3?

My letters have been complained of, my statements called in question, and I was content to wait until facts and the publication of official papers should justify me. This new style of controversy appears more barbarous. I am content to take that also. If any further scandal happen, I shall take the freedom to report it to your paper and endure my three months in Apia gaol with as much patience as I may.

But I think these are new experiences for a British subject. I think this is a new departure in British legislation. I ask myself how it would be liked at home—in Ireland, for example—and I am curious to learn what will be thought of it even as applied to British residents in that singular limbo, the western Pacific. The high commission has done good service in the past. It was created to deal with anomalous circumstances, which exist no longer. I wonder if its existence or nature are generally understood, and I wonder whether this last instance of its power and discretion will be palatable to the Government of England.

I am, sir, your obedient servant,

ROBERT LOUIS STEVENSON.

SAMOA, *February, 1893.*

Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Empress of India, Defender of the Faith, etc. A regulation (made in the name of and on behalf of Her Britannic Majesty by Her Majesty's high commissioner for the western Pacific, under the provisions of the western Pacific order in council of 1879), for the maintenance of peace and good order in Samoa.

[L. S.]

JOHN B. THURSTON.

1. Any British subject who shall be guilty of sedition towards the Government of Samoa shall be liable, on conviction, to a fine not exceeding £10 or to imprisonment without hard labor for not more than three months, with or without a fine not exceeding £10.

2. The expression "Government of Samoa" shall mean the government recognized as such in Samoa by the principal British consular officer for the time being in Samoa.

3. The expression "sedition towards the Government of Samoa" shall embrace all practices, whether by word, deed, or writing, having for their object to bring about in Samoa discontent or dissatisfaction, public disturbance, civil war, hatred or contempt towards the King or Government of Samoa or the laws or constitution of the country, and generally to promote public disorder in Samoa.

4. If at the trial of any person under this regulation it shall appear that the offense charged is one which would, if this regulation had not been made, be punishable as criminal libel or otherwise by English law, or under any order in council issued by Her Majesty and being in force in Samoa, or by any other regulation made in the name and on behalf of Her Majesty by Her Majesty's high commissioner for the western Pacific, the court may either proceed with the trial under this regulation or may order that the charge under this regulation be dismissed and that the accused be put on his trial for criminal libel or otherwise, as the case may be.

5. This regulation shall come into operation on the 1st day of January, in the year of our Lord 1893, and may be cited as "the sedition (Samoa) regulation, 1892."

Given this 29th day of December, 1892.

By command:

WILFRED COLLET,  
*Secretary to the High Commissioner.*

[Inclosure 2 in No. 961.]

[The Standard, Wednesday, April 5, 1893.]

*Samoa.*

[From our correspondent.]

BERLIN, TUESDAY NIGHT.

The chief judge of Samoa, the Swedish lawyer, Baron Cedererantz, has repeated his request to be released from his office on the ground that the Berlin-Samoan treaty appears to be a farce, and that he can do no good with his present situation. His wish in this matter will, I believe, shortly be complied with.

*Mr. Lincoln to Mr. Gresham.*

No. 967.]

LEGATION OF THE UNITED STATES,  
*London, April 7, 1893.*

SIR: Referring to Mr. White's dispatch, No. 961, of 4th instant, I have the honor to inclose herewith a statement made yesterday in reply to a question, in the House of Commons, by Mr. S. Buxton, parliamentary under secretary for the colonies, relative to the regulation issued by Her Majesty's high commission for the western Pacific.

It will be observed that the British Government propose to modify some portions of the recent ordinance directed against sedition in Samoa, which was forwarded to you in the dispatch previously referred to, and the colonial office denies that the regulation in question was issued at the instance of a foreign power or was directed exclusively at Mr. Robert Louis Stevenson, as implied in that gentleman's letter to the Times newspaper.

I have, etc.,

ROBERT T. LINCOLN.

[Inclosure in No. 967.]

[The Times, Friday, April 7, 1893.]

*Samoa.*

In reply to Mr. Henniker Heaton, Mr. S. Buxton said the arrangements as to the affairs of Samoa, which were agreed to at Berlin by the Governments of Great Britain, Germany, and the United States, were still in force. It had been decided to instruct the high commissioner of the western Pacific to modify some portions of the recent ordinance directed against sedition in Samoa. That ordinance was not issued in consequence of representations by a foreign power, nor was it aimed exclusively at Mr. R. L. Stevenson.

*Mr. Lincoln to Mr. Gresham.*

No. 969.]

LEGATION OF THE UNITED STATES,  
*London, April 8, 1893.*

SIR: Referring to my dispatch, No. 967, of yesterday's date, I have the honor to inclose herewith for your information a telegram which has appeared in to-day's Times newspaper, from its Berlin correspondent, who professes to give therein the opinion of the German Government relative to Samoan affairs.

I have, etc.,

ROBERT T. LINCOLN.

[Inclosure 1 in No. 969.—From the Times, Saturday, April 8, 1893.]

THE SITUATION IN SAMOA.

BERLIN, *April 7.*

The announcement that Herr von Cedererantz, the chief justice of Samoa, has handed in his resignation excites here neither astonishment nor regret. Since his installation there have been a series of petty dissensions, chiefly between him and the consuls, which put peace and quiet out of the question, and the three signatory powers have for some time past been agreed that such a state of things could not be allowed to continue. Probably Herr von Cedererantz has come to see this in the same



light as Germany, England, and America, and has done the wisest thing in resigning, thus rendering it unnecessary for the signatory powers to take the initiative against an official chosen by the King of Sweden. Herr von Cedererantz was right in applying the term "a comedy" to the Samoa convention of 1889, but the question forces itself upon us whether the chief justice had done his best to put a better face on the matter. This question must unfortunately be answered in the negative. Herr von Cedererantz had adopted as his motto "Samoa for the Samoans," and irrespective of the interests of foreign residents formed his policy on these lines. It is true the native inhabitants outnumber the foreigners in the proportion of 120 to 1, and this numerical superiority may have induced the chief justice to overlook the little band of settlers. The natives, however, have not been slow to give proofs of their overbearing character in times past, and Herr von Cedererantz's conduct has done nothing to lessen the danger of revolution in the future.

Leaving out of count the fact that the Polynesians of Samoa are not a very highly cultured race, the Germans, English, and Americans certainly deserve the chief consideration. It is they who pay the taxes which form the greater part of the income of Samoa, and it is in their hands that the whole trade of the islands is concentrated. Another point, though apparently insignificant, deserves mention. Herr von Cedererantz has always made it his custom to live in the most simple style, and has therefore failed to make much impression on the natives, who, like all uncultured people, are highly susceptible to the influence of outward show. In a word, Herr von Cedererantz has failed to satisfy either the powers, the foreign settlers, or the Samoans themselves, though probably acting with the best intentions.

It would, perhaps, be unfair to cast all the blame on the shoulders of the chief justice. No one will extol the Samoan treaty of 1889 as a masterpiece of combined European and American policy in the nineteenth century, and this unlucky agreement must be given its full weight in judging of the conduct of Herr von Cedererantz. Probably the only sensible suggestion made at the Samoan conference was the proposal of England that a cable should be laid to Samoa at the common expense of the signatory powers. This plan was disregarded, and its rejection has only served to make a difficult task more difficult. In the present circumstances dispatches reach Europe in four, five, or six weeks, and the necessary interchange of diplomatic notes between the cabinets of England, Germany, and Washington causes further delay. It can, therefore, easily happen that the state of things in the islands, regarding which the instructions of the powers were requested may, during this space of time, have given place to a situation requiring renewed diplomatic communication and fresh instructions. Again, one constant danger lies in the fact that the native inhabitants, numerous as they are, have provided themselves with arms and ammunition. In case of a general revolution the ships stationed at Samoa would not be capable of disarming the natives, a course that would probably require a squadron of at least nine vessels.

These remarks, which do not make the slightest claim to novelty, represent in substance the views held in Germany on Samoa. England and America will not feel disposed to deny the anomalous and intolerable condition of things in these unhappy islands, but nowhere is this more fully recognized and nowhere is the desire for a speedy amendment stronger than in Germany. In view of the preponderating numbers and influence of the Germans in Samoa, the Cologne Gazette goes so far as to advise an annexation of the islands by the German Empire.

It is imperative that a remedy should be found, and for one power to be supreme in Samoa seems to be the simplest way out of a difficulty created by a treaty which may fitly be characterized by borrowing the words used by Prince Bismarck, in a very different connection, as "the most miserable of all treaties."—(Our own correspondent.)

[The Times, Saturday, April 8, 1893.]

SYDNEY, April 7.

Sir John Thurston, governor of Fiji, and high commissioner of the western Pacific, denies that he is in any way hostile to Mr. Robert Louis Stevenson. He considers, however, that peace and good order are unattainable in Samoa, owing to the unnecessary interference of meddlesome and irresponsible persons.—(Dalziel, The Times special.)

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*Mr. White to Mr. Gresham.*

No. 994.]

LEGATION OF THE UNITED STATES,  
London, May 17, 1893.

SIR: I have the honor to inclose herewith the copy of a cablegram which I received from you at an early hour this morning, instructing

me to inform the foreign office of our acceptance of the extension of the Samoa land commission until March 31, 1894.

I also inclose the copy of a note which I thereupon addressed to the Earl of Rosebery.

I have, etc.,

HENRY WHITE.

[Inclosure No. 1.]

*Mr. Gresham to Mr. White.*

[Copy of telegram received at the legation May 17, 1893.]

German Government having likewise agreed, this Government accepts extension of Samoan land commission until March 31, 1894. New American commissioner, vice Ormsbee, resigned, will be at once named. Notify foreign office.

GRESHAM.

[Inclosure No. 2.]

*Mr. White to the Earl of Rosebery.*

LEGATION OF THE UNITED STATES,  
London, May 17, 1893.

MY LORD: I have the honor to acquaint your lordship, in accordance with telegraphic instructions from the Secretary of State, that my Government accepts the extension of the Samoan land commission until March 31, 1894, the German Government having agreed to do likewise, and that a new American commissioner will at once be appointed in the place of Mr. Ormsbee, who has resigned.

I have, etc.,

HENRY WHITE.

*Mr. White to Mr. Gresham.*

No. 997.]

LEGATION OF THE UNITED STATES,  
London, May 19, 1893.

SIR: Referring to my dispatch, No. 994, of the 17th instant, I have the honor to inclose herewith, for your information, an article which appeared in the Times newspaper of yesterday relative to the affairs of Samoa.

I have, etc.,

HENRY WHITE.

[Inclosure in No. 997.]

[The Times, Thursday, May 18, 1893.]

Mr. Stevenson has not written, it would seem, too strongly about the state of things in Samoa and the behavior of Baron Senfft von Pilsach and Chief Justice Cedercrantz. Those who suspected that a master of historical romance and a humorist of rare ingenuity had, on a slender basis of fact, constructed a story of phantasy vying with the "Treasure Island" should read the "Further correspondence respecting the affairs of Samoa," just issued as a blue book. In official documents, some of them under the hand of Baron Senfft von Pilsach himself, he appears as absurd a personage as in the letters from Mr. Stevenson, which we have from time to time published. Far from being the inventor of imaginary grievances and grotesque dignitaries, the latter is only the spokesman of a community, once amused, but long ago indignant, at the antics of official comedians. Mr. Stevenson is not a harsher critic of the reign of petty tyranny and licensed extravaganza at Apia than our consul-general and the members of the municipal council. Under the Berlin treaty, which gave it effect, three of the great powers control Samoa; Mr. Otto Cedercrantz,



a Swedish lawyer, was appointed chief justice, and a little later Baron Senfft von Pilsach, a regierungs-assessor in the Prussian service, was nominated president of the municipal council. Since these worthies set foot on the islands peace has deserted them, and for about eighteen months almost every mail must have brought our foreign office, the German chancery, and the Secretary of State at Washington dispatches complaining of something done or omitted by these officials. Mr. Stevenson may have made too much of a few incidents, and failed to mention all condoning circumstances. He may have credited the chief justice and the ex-regierungs-assessor with a vein of comedy of which they were innocent. But in the official history is abundant corroboration of the substance of his charges.

Shortly after the arrival of the chief justice he took the earliest opportunity of snubbing the Samoan land commissioners, who exercise important administrative and quasi-judicial duties in regard to land claims. They can not incur expenditure without his approval. He did not answer their letter of request with ordinary promptness, and in the end he declined to sanction expenses which all the commissioners agreed were necessary, to the serious obstruction of public business. In a crisis in the history of the colony, when a revolt had broken out, he suddenly announced that he was about to go to Fiji and Sydney, and to shut up the supreme court for three months—a course which he took, notwithstanding the protests of the consuls. He did not improve matters by claiming personal exemption from the payment of duties or taxes. In a little time we find him further embarrassing the land commission by inhibiting it from settling disputed claims; and he outdid his previous performances by deciding that the import duties belonged solely to the Samoan Government, and not, as had hitherto been believed, to the municipality of Apia, thus reducing the latter at one stroke to a state of insolvency. Both the English and German governments at once recognized the injustice of the decision, which appears to have been in flat contradiction to a previous opinion publicly expressed; but before they could make known their opinion the chief justice had further distinguished himself by announcing his intention of levying a fee of \$5 on the registration of each land title, the proceeds going to Dr. Hagberg, a Swedish lawyer, appointed registrar by the chief justice. This was followed up by a decision that registration of title to any estate should be dependent on a preliminary survey of the land. Both these decisions Lord Rosebery and the German foreign office declared to be *ultra vires*. Evidently, Baron Senfft von Pilsach had made up his mind not to be outdone in arbitrariness by the chief justice.

As early as August, 1891, our consul-general is writing to Lord Salisbury that "the municipal president, in his capacity of adviser to the King, has assumed the position of dictator to the Samoan Government." He had apparently come to Upolu with the notion that the Government could not manage its affairs and that the business of an adviser was to give orders and meddle as much as possible. Without consulting the municipal council he instructed an architect to prepare plans and specifications for a costly edifice and issued an advertisement inviting tenders for "capitol buildings," which, remarks our consul-general, "prove to be mainly a dwelling house for Baron Senfft von Pilsach." This pseudo Bismarck took very high ground. He declared it to be a constitutional "necessity that no one should be allowed to correspond with the King or the King permitted to reply without the knowledge of and advice from the municipal president." He quarreled with the auditors of his accounts and persisted in maintaining, on subtle, metaphysical grounds, that their duties did not include checking the cash which he said he had in hand. He gave offense to the U. S. Government by announcing *pro prio motu* that the pound sterling and the 20-mark gold piece were to be received at \$5 U. S. currency, instead of \$4.76. He informed the consuls that he would no longer allow them to inspect his financial reports to the King; and when the Government could barely pay its way it bought up, at the baron's suggestion, an opposition newspaper, and then started a Royal Gazette to compete with and lessen the value of that which had been bought. The result was what might be expected. "The various officials," our consul-general wrote last September to Lord Rosebery, "are unable to draw their salaries, and there is no money even to pay police. An order of the King's upon the treasury to pay for a boat, amounting to £100, has been returned by the president, who states that there is no money in the treasury," and he suggests that this collapse would have been avoided if money had not been spent in building a dwelling house for the baron and an expensive gaol never used, and in buying up a troublesome local newspaper.

Before the arrival of the two officials whose vagaries form the staple of Samoan history for the last two years the group of islands was far from being well governed. Malietoa, the Sovereign, has an arbitrary turn, if we may judge of his disposition from the tenor of one of his royal speeches, which runs thus: "I have forbidden to all Samoans to play cricket by ordinance made on the 20th June. \* \* \* I am of opinion that this (the game of cricket) should be forbidden, else nobody would think of doing useful work. From it results the shortness of food and the impossibility



to think of ways and means to earn money for paying taxes to the Government and for paying debts to the merchants." Chance gave Malietoa a chief justice and an adviser who hastened to act with naive recklessness, and to treat a whole community as so many naughty boys and its gravest affairs as lightly as a cricket match. Mr. Stevenson has been only too completely justified by the story of bureaucratic blindness, pompous inefficiency, and financial disaster told in the official record. There are always elements of trouble and danger in Samoa. The respect of the natives for the Government is small. Mataafa, the plotting pretender to the Crown, sits hard by, as Mr. Stevenson has often reminded us, and sees the blunders of high authorities do more for him than he could ever hope from the spears of his followers; and the fear must be that, if the official comedians remain much longer on the stage, their concentrated folly may have a tragic ending.

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*Mr. White to Mr. Gresham.*

No. 1001.]

LEGATION OF THE UNITED STATES,

*London May 24, 1893.*

SIR: Referring to my dispatch, No. 994, of May 17, I have the honor to inclose herewith a copy of the note which I have received from the Earl of Rosebery in reply to mine of the aforesaid date, relative to the extension of the Samoan land commission.

I have, etc.,

HENRY WHITE.

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[Inclosure.]

*Earl of Rosebery to Mr. White.*

FOREIGN OFFICE, *May 23, 1893.*

SIR: I have the honor to acknowledge the receipt of your note of the 17th instant, informing me that, in agreement with the German Government, the U. S. Government have accepted the proposed extension of the Samoan land commission until March 31, 1894, and that a successor to Mr. Ormsbee, the American land commissioner, will at once be appointed.

In reply, I beg to state that Her Majesty's Government have not failed to send the necessary instructions on the subject to Her Majesty's consul at Apia.

I have, etc.,

ROSEBERY.

---

*Mr. Bayard to Mr. Gresham.*

No. 7.]

EMBASSY OF THE UNITED STATES,

*London, June 21, 1893.*

SIR: I had yesterday the honor of receiving your cablegram in cipher (a translation of which is inclosed herewith) relating to Samoan affairs; and, as instructed thereby, at once applied for an interview with Her Majesty's minister for foreign affairs, in order to obtain the cooperative action desired by you with the representatives of the British and German Governments.

The departure of Lord Rosebery from town has delayed the proposed interview, but I will see his lordship at the earliest possible moment and convey to you his reply to the suggestions contained in your telegram.

As bearing upon the Samoan question, I transmit to you by the dispatch bag to-day a blue book (Samoa, No. 1, 1893) containing further correspondence respecting the affairs of those islands.

I have, etc.,

T. F. BAYARD.

*Mr. Bayard to Mr. Gresham.*

[Telegram.]

LONDON, *June 27, 1893.*

Principal secretary of state for foreign affairs has instructed British ambassador at Washington to confer with you and German minister relative to Samoa.

BAYARD.

CORRESPONDENCE BETWEEN THE DEPARTMENT OF STATE AND THE  
UNITED STATES EMBASSY AT BERLIN.

*Mr. Blaine to Mr. Phelps.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, December 29, 1891.*

*PHELPS, Minister, Berlin:*

Ascertain by thorough investigation and advise as to character and fitness of Baron Senfft von Pilsach for president municipal council, Apia.

BLAINE.

*Mr. Wharton to Mr. Phelps.*

No. 228.]

DEPARTMENT OF STATE,  
*Washington, March 26, 1891.*

SIR: The President, by and with the advice and consent of the Senate, has appointed Henry C. Ide, of Vermont, to be a land commissioner in Samoa, under the fourth article of the general act signed at Berlin, June 14, 1889. Mr. Ide is by profession a lawyer, is of mature years, and of high reputation for competency and impartiality.

You are instructed to communicate this information to the foreign office.

It is expected that Mr. Ide will depart for his post at an early day.

I am, sir, etc.,

WILLIAM F. WHARTON,  
*Acting Secretary.*

*Mr. Blaine to Mr. Phelps.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, October 26, 1891.*

*PHELPS, Minister, Berlin:*

Telegram from Apia, by way of Sydney, 23d, reports resignation of president of municipal council October 5, owing to disagreement with German member of council; consuls protested against his proposal to hand over municipal funds to German consul; and president refuses to deliver funds to three consuls acting jointly. You will represent the embarrassment this situation is likely to cause to the efforts of the three powers to secure good government in Samoa, and the necessity of equal share of the three in the financial administration during this temporary emergency.

BLAINE.

*Mr. Phelps to Mr. Blaine.*

[Telegram.]

U. S. LEGATION,  
*Berlin, October 28, 1891.*

Marschall agrees that money should go to three consuls if municipal president resigns, but says Senfft resigned to Malietoa, which indeed (was) irregular and absurd, and Marschall has telegraphed Senfft he can not resign to Malietoa, and chancellor advises him not to resign at all. They know nothing except this fact of resignation, and talk as if provoked at Senfft's conduct. I saw Malet first, who shares our views.

PHELPS.

*Mr. Phelps to Mr. Blaine.*

No. 347.]

LEGATION OF THE UNITED STATES,  
*Berlin, October 28, 1891.*

SIR: I received yesterday morning the following dispatch:

PHELPS, Minister, Berlin:

Telegram from Apia, by way of Sydney, 23d, reports resignation of president municipal council October 5, owing to disagreement with German member of council. Consuls protested against his proposal to hand over municipal funds to German consul, and president refuses to deliver funds to the three consuls acting jointly. You will represent the embarrassment this situation is likely to cause to the efforts of the three powers to secure good government in Samoa, and the necessity of equal share of the three in the financial administration during this temporary emergency.

BLAINE.

I sought immediately an interview with Baron von Marschall. As it happened, he was at Potsdam for the day engaged in duties connected with the presence of the King of Roumania, who is now the guest of the Emperor. Thinking it wise to be assured of British cooperation, I called upon Sir Edward Malet and was happy to find that he shared the view of the case which you have presented in your dispatch.

To-day I had an interview with Baron von Marschall with the results which I have already communicated to you in the following telegram.

BLAINE, Secretary, Washington:

Marschall agrees that money should go to three consuls if municipal president resigns, but says Senfft resigned to Malietoa, which is irregular and absurd, and Marschall has telegraphed Senfft he can not resign to Malietoa and chancellor advises him not to resign at all.

They know nothing except this fact of resignation, and talked as if provoked at Senfft's conduct.

I saw Malet first, who shares our views.

PHELPS.

Baron von Marschall had heard of Baron von Senfft's resignation by telegram a week ago. It was an entire surprise to him, nor did he know more of its cause than that it was connected with a disagreement between a German member of the municipal council and its president. Baron von Marschall expressed some disgust that we should be given annoyance by a quarrel "in the family," as he termed it, and at the stupidity of Baron von Senfft in thinking he could resign to King Malietoa. He added that in the telegram he had sent to Baron von Senfft he had dwelt severely upon this blunder and upon the dissatisfaction with which the German Government would receive his resignation should he insist on making it and do so in regular form and to the proper parties.



Under these circumstances I do not see that there is anything for us to do except to wait for further developments.

I have, etc.,

W. WALTER PHELPS.

*Mr. Blaine to Mr. Phelps.*

No. 325.]

DEPARTMENT OF STATE,  
Washington, November 5, 1891.

SIR: Adverting to my No. 317, of the 28th ultimo, confirmatory of my telegram to you of the 26th of the same month in relation to the reported resignation of the president of the municipal council of Samoa, I herewith inclose copy of the Department's note of the 28th ultimo to the minister of Great Britain at this capital, and of his reply of the 31st of the same month upon the subject.

I am, etc.,

JAMES G. BLAINE.

*Mr. Gresham to Mr. Coleman.*

No. 545.]

DEPARTMENT OF STATE,  
Washington, March 8, 1893.

SIR: I inclose for your information copies of recent correspondence between the Department and the British and German legations at this capital on the subject of administrative changes in Samoa, and particularly with reference to the possible objections of Her Britannic Majesty's Government to Mr. Hennings' appointment as president of the municipal council of Apia.

I am, etc.,

W. Q. GRESHAM.

*Mr. Phelps to Mr. Gresham.*

No. 551.]

LEGATION OF THE UNITED STATES,  
Berlin, March 24, 1893.

SIR: I have the honor to acknowledge the receipt of your instruction No. 545, of the 8th instant, covering a very interesting correspondence connected with the proposed change of officials in Samoa.

I wish to express my appreciation of the thoughtfulness which furnishes me with this information and so enables me in the informal discussions which are likely to occur whenever I meet with Baron von Marschall or Sir Edward Malet, to take intelligently such a part as may tend to promote the wishes of the Department. I conceive that the President would be glad if, without any active interference on our side, the English Government should reconsider its refusal to accept the nomination of Mr. Hennings, and so end this matter by accepting both the candidates proposed by the German Government and accepted by us.

I have, etc.,

WM. WALTER PHELPS.

*Mr. Phelps to Mr. Gresham.*

No. 561.]

LEGATION OF THE UNITED STATES,  
*Berlin, April 28, 1893.*

SIR: I have the honor to transmit herewith a copy, with translation, of a note from the imperial foreign office, dated the 27th instant, which was received to-day, and in which it is suggested by the German Government that the labors of the Samoan land commission be allowed to be prolonged until the end of May, 1894.

While awaiting instructions from the Department which will enable me to communicate to the foreign office the wishes of the President in this matter,

I have, etc.,

WM. WALTER PHELPS.

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[Inclosure in No. 561.—Translation.]

FOREIGN OFFICE,  
*Berlin, April 27, 1893.*

MR. MINISTER: It appears by a communication from the imperial envoy at Washington that the U. S. Government had in January last called attention to the fact that the land commission appointed to examine land claims in Samoa could not accomplish its task within the period of two years provided for in Article IV, section 3, of the Samoan treaty, and that a question had consequently arisen of prolonging this period.

The Imperial Government would consider it expedient to make such prolongation for the period of one year, so that the commission which began its labors on May 30, 1891, would be required to complete them at the latest by the end of May, 1894. I should be grateful if your excellency would kindly inform me whether the Government of the United States agrees to this proposition. The same proposal has been made to the Royal Government of Great Britain, and I shall not fail to communicate their answer to your excellency.

Accept, etc.,

ROTENHAN.

*Mr. Phelps to Mr. Gresham.*

[Telegram.]

BERLIN, *May 15, 1893.*

Samoan affairs, dispatch 561, England and Germany will prolong until March 31 next, if we agree.

PHELPS.

*Mr. Gresham to Mr. Phelps.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, May 16, 1893.*

In view of British acceptance of proposition, notified by your telegram, this Government acquiesces in modified date and accepts extension of Samoan land commission until March 31, 1894. New American commissioner will be named forthwith, vice Ormsbee, resigned yesterday.

GRESHAM.

*Mr. Gresham to Mr. Runyon.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, June 19, 1893.

German memorandum, June 13, recites apprehension of war in Samoa if Malietoa carries out announced purpose of forcibly subjecting Mataafa party, and asks views of this Government. Have answered that United States, mindful of obligation equally shared by three powers to execute general act of Berlin by upholding the authority they have jointly created, and in the humane desire to avert bloodshed, will send one or two naval vessels to Samoa to join with like naval forces of Germany and Great Britain in landing adequate force, surrounding Mataafa's faction and disarming them. Operations to be decided by naval commanders jointly.

Inform minister of foreign affairs, and suggest immediate conference here with British ambassador and German minister.

GRESHAM.

*Mr. Runyon to Mr. Gresham.*

[Telegram.]

BERLIN, June 20, 1893.

Suggested conference; reply promised in a day or two.

RUNYON.

*Mr. Gresham to Mr. Runyon.*

No. 24.]

DEPARTMENT OF STATE,  
Washington, June 20, 1893.

SIR: Referring to my telegram of yesterday to you relative to Samoan affairs, I inclose for your information a copy of correspondence in regard to the subject with the German legation and the British embassy at this capital.

I am, etc.,

W. Q. GRESHAM.

INCLOSURES.<sup>1</sup>

1. Memorandum of Imperial German legation, dated June 13, 1893.
2. Counter memorandum of the Department of State, dated June 19, 1893.
3. From the Secretary of State to the minister of Germany, dated June 19, 1893.
4. From the Secretary of State to the British ambassador, June 19, 1893.

*Mr. Gresham to Mr. Runyon.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, June 22, 1893.

Telegram of this date received. After obtaining full information from consular officers and other sources, naval officers should be left free to determine how they will direct the combined forces against Mataafa

<sup>1</sup>For Nos. 1, 2, and 3, see under correspondence with German embassy; for No. 4, see under correspondence with British embassy.



and others in rebellion. Naval officers should not be required to consult consuls otherwise than for information, and United States not willing that the details of military operations shall be determined by the consuls. When Mataafa and his adherents are disarmed, the established Government will be able to exercise legitimate authority.

GRESHAM.

*Mr. Runyon to Mr. Gresham.*

[Telegram.]

BERLIN, June 22, 1893.

Minister for foreign affairs concurs in the plan mentioned in your cipher telegram in regard to Samoa, but thinks each Government should send two ships. German Government has one already; another will be there July 5. He thinks that operations of combined forces and all details in connection with them should be left to the joint decision of the naval commanders and the consular officers of the three Governments on the spot.

He now sees no reason for suggested conference and awaits explicit statement as to the subjects proposed to be submitted.

RUNYON.

*Mr. Runyon to Mr. Gresham.*

[Telegram.]

BERLIN, June 23, 1893.

Minister for foreign affairs concurs in all the views expressed in your cipher telegram of yesterday. He still thinks conference unnecessary. Yesterday does not refer to it. Is it to be assumed that it is waived?

RUNYON.

*Mr. Gresham to Mr. Runyon.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, June 23, 1893.

Conference waived.

GRESHAM.

*Mr. Gresham to Mr. Runyon.*

No. 46.]

DEPARTMENT OF STATE,  
Washington, July 14, 1893.

SIR: I have to acknowledge the receipt of your dispatch, No. 9, of the 24th ultimo upon the subject of a joint effort of the three treaty powers to effect the surrender of Mataafa and his adherents in Samoa.

The *Philadelphia*, one of our newest and best equipped vessels, is now on her way to Samoa to participate with the war ships of Germany and Great Britain in the maintenance of the authority established by the three powers.

I regret, however, our inability at this time to send more than one ship, but the *Philadelphia* will be able to land at least 200 men, perhaps more, which I hope will be sufficient and satisfactory to Germany and Great Britain.

The *Philadelphia* will arrive at Apia about the last of August.

I am, etc.,

W. Q. GRESHAM.

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*Mr. Runyon to Mr. Gresham.*

No. 25.]

EMBASSY OF THE UNITED STATES,  
*Berlin, January 2, 1894.*

SIR: I have the honor to transmit a copy of a communication in regard to Samoan affairs received by me from the imperial foreign office this morning, also a translation thereof. I beg to call attention to the request which the document contains that the reply of the U. S. Government be sent by telegraph.

I have, etc.,

THEODORE RUNYON.

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[Inclosure 1 in No. 25.—Translation.]

*Baron Marschall to Mr. Runyon.*

FOREIGN OFFICE,  
*Berlin, December 31, 1893.*

MR. AMBASSADOR: In the note March 17 last, Mr. Walter Phelps sent information that the Government of the United States agreed that the session of the land commission at Apia be extended to the contemplated time, March 31, 1894. In consequence of this agreement reached by the three treaty powers, the work of the land commission was extended to the above period. According to reports transmitted to the Imperial Government in the meantime, there is now no doubt that the commission will not be able to finish the examination of the land claims in Samoa, according to the Samoan act, even within the time, as extended. The circumstance that the newly appointed land commissioner only arrived in Apia in November last, about eight months after the departure of his predecessor, may in a large degree have added to the delay in the work of the commission. As matters stand, it seems advisable to adopt, without delay, the necessary measures to insure that the working of the commission be not interrupted again. In consideration hereof the Imperial Government permits itself to propose another extension of time for the labor of the land commission, if necessary to the end of the year 1894. I would be grateful if your excellency would kindly acquaint your Government with this proposition, and would communicate its decision to me. In order that the members of land commission be notified of this extension if agreed to, or that they be replaced in due season, it is important that the Government of the United States transmit its answer by telegraph.

While I beg to add that a like proposition has been made to the royal Government of Great Britain,

I avail myself, etc.,

MARSCHALL.

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*Mr. Gresham to Mr. Runyon.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, January 20, 1894.*

Your 25 received. Having ascertained concurrence of Great Britain, this Government agrees to continue land commission in Samoa until end of this year if necessary to complete its work.

GRESHAM.

*Mr. Uhl to Mr. Runyon.*

No. 53.]

DEPARTMENT OF STATE,  
*Washington, February 2, 1894.*

SIR: I inclose for your information a copy of a note of the 29th ultimo, addressed by this Department to the ambassador of Germany at this capital in reply to an unofficial communication from him relative to a reported insurrection in Samoa.

I am, etc.,

EDWIN F. UHL,  
*Acting Secretary.*

INCLOSURE.

A copy as above.

*Mr. Uhl to Mr. Runyon.*

No. 78.]

DEPARTMENT OF STATE,  
*Washington, April 3, 1894.*

SIR: I inclose herewith, for your information and the files of your embassy, copy of a correspondence between this Department and the ambassadors here of Great Britain and Germany respecting the expense of the maintenance of Mataafa and other Samoan chiefs during their temporary detention at Fakaofu.

I am, etc.,

EDWIN F. UHL,  
*Acting Secretary.**Mr. Coleman to Mr. Gresham.*

No. 87.]

EMBASSY OF THE UNITED STATES,  
*Berlin, April 29, 1894. (Received May 16.)*

SIR: I have the honor to inclose herewith the full text of certain leading articles, accompanied by translations, relating to Samoan affairs, taken from the numbers of the North German Gazette published on the 26th and 28th instant.

Peculiar interest attaches to the utterances of this semiofficial journal for the reason that they are generally regarded, when important political matters are discussed, as reflecting the views of the imperial foreign office.

I have, etc.,

CHAPMAN COLEMAN.

[Inclosure 1 in No. 87.—From the Norddeutsche Allgemeine Zeitung, April 26, 1894.—Translation.]

In the sitting of the English House of Commons of the 24th instant, the under secretary of state of the foreign office confirmed the intelligence that the New Zealand Government has proposed to take upon itself the administration of the Samoan Islands. Sir Edward Grey remarked in this connection that this or any similar proposition appeared to be incompatible with the provisions of the Berlin agreement.

One will not go far wrong in assuming that the action of New Zealand is due to the artificial machinations of Chauvinists in that country and in England. It is indeed unintelligible on what grounds the New Zealand or any other colonial government can base its claims to interfere in Samoan affairs. The existing agreement,



which is still in force, was concluded between England, Germany, and the United States. If it should be deemed necessary to amend or to annul this convention the negotiations would be conducted by the cabinets of London, Berlin, and Washington alone, and they would doubtless take into consideration the present condition of the islands and the material interests of the nations represented there. New Zealand would not be considered at all, as it does not possess any interests in Samoa worth mentioning. The commercial interests in the islands, including under this term both trade in general and plantations, are almost exclusively in the hands of the Germans. A systematic agitation coming from New Zealand or from any other English colony can not alter these stubborn facts.

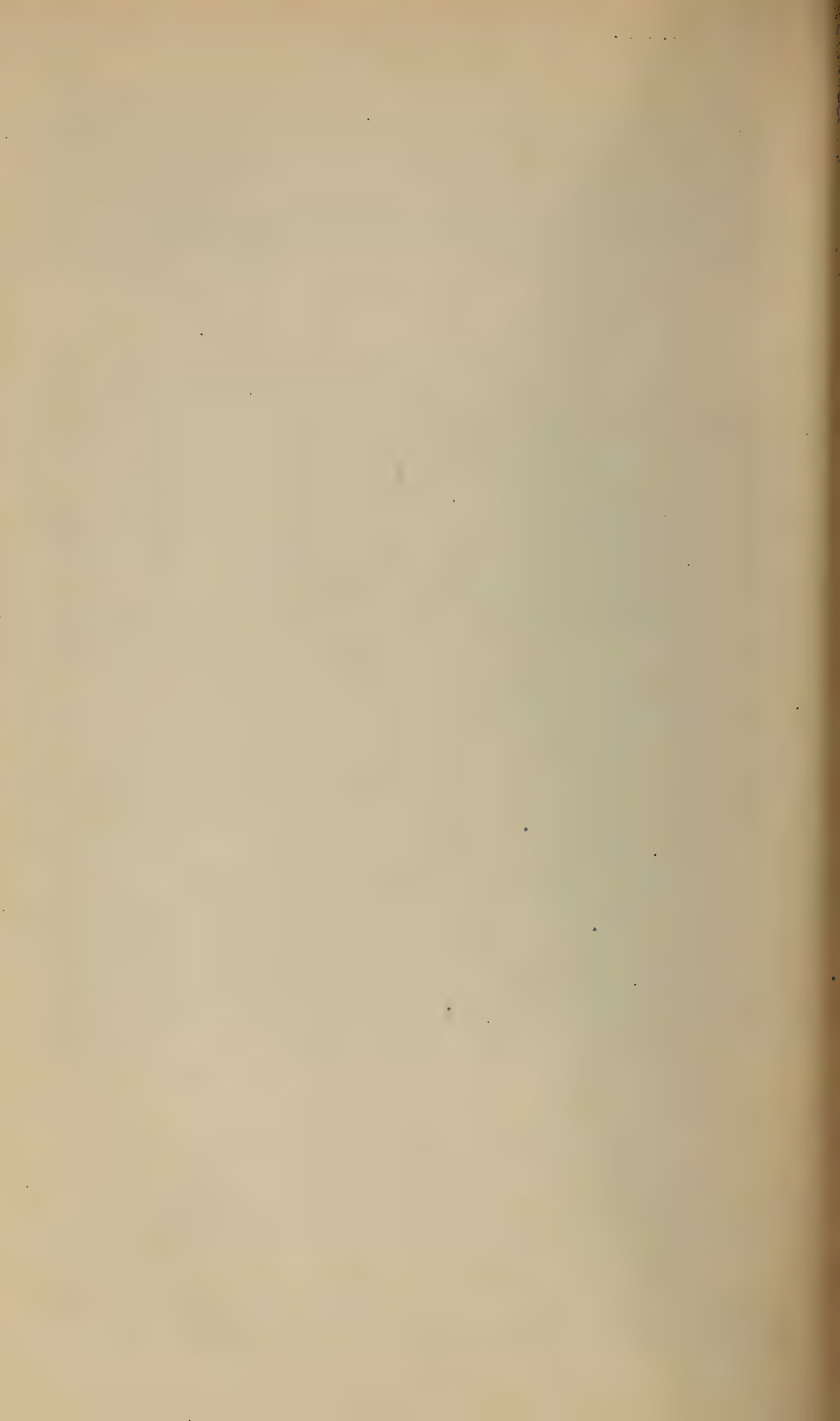
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[Inclosure 2 in No. 87.—From the Norddeutsche Allgemeine Zeitung, April 28, 1894.—Translation.]

The article in the Times respecting the Samoan question, reported yesterday by telegraph, is now before us in its full text. The city sheet shares the opinion that the present situation in Samoa has become untenable, but fails to suggest any positive measure for its improvement. The proposal of the Government of New Zealand to take Samoa under its own administration is considered favorably, and the only misgivings expressed are based on the apprehension that England would be held responsible for the success of the experiment. As regards German claims on the islands, the paper remarks that English sentiment is not prepared to accept an exclusive German protectorate over Samoa, for the reason that such protectorate would involve some large questions of policy, alike for England and for the Australian colonies, which could not be set aside by the rather irrelevant argument that the most important commercial interests there are in German hands.

Finally, the Times asserts that those who demand a German protectorate in Samoa, and object strongly to the proposals of New Zealand, do not represent the preponderant opinion of the German people, but rather that there are many Germans who would gladly see the German Government freed from all responsibility in Samoa, and German interests safeguarded under an English protectorate.

The influence of the Times on public opinion in England is still too great for such statements to be passed over in silence. It is quite intelligible that an English newspaper should sympathize with the idea of an administration of Samoa by an English colony. But on the other side of the channel people must prepare themselves to learn that from a German point of view, neither New Zealand nor any other English colony has any business in Samoa, and that they have absolutely no right to meddle in the affairs of the islands. As is already known, negotiations are at the present moment in progress for a fresh settlement of the Samoan question, and it would be prejudicial to their success if such a distorted view as to the attitude of public opinion in Germany were to find currency in England. The Times characterizes the fact that trade and commerce in Samoa are almost exclusively in German hands as irrelevant, but it is exactly this point which is for Germany of decisive importance. There are in Germany unconditional opponents of a colonial policy, who pursue their principles so far that they would be willing to accept an English protectorate over Samoa, but they are in the minority. On the other hand, the great majority of the German nation is of the opinion that, in consideration of the historical development of Samoa and of the preponderance of German interests there, a protectorate of any country but Germany is out of the question. By representing this view as that of a Chauvinist minority, the city organ is leading the public opinion of England astray. We deplore this most sincerely.



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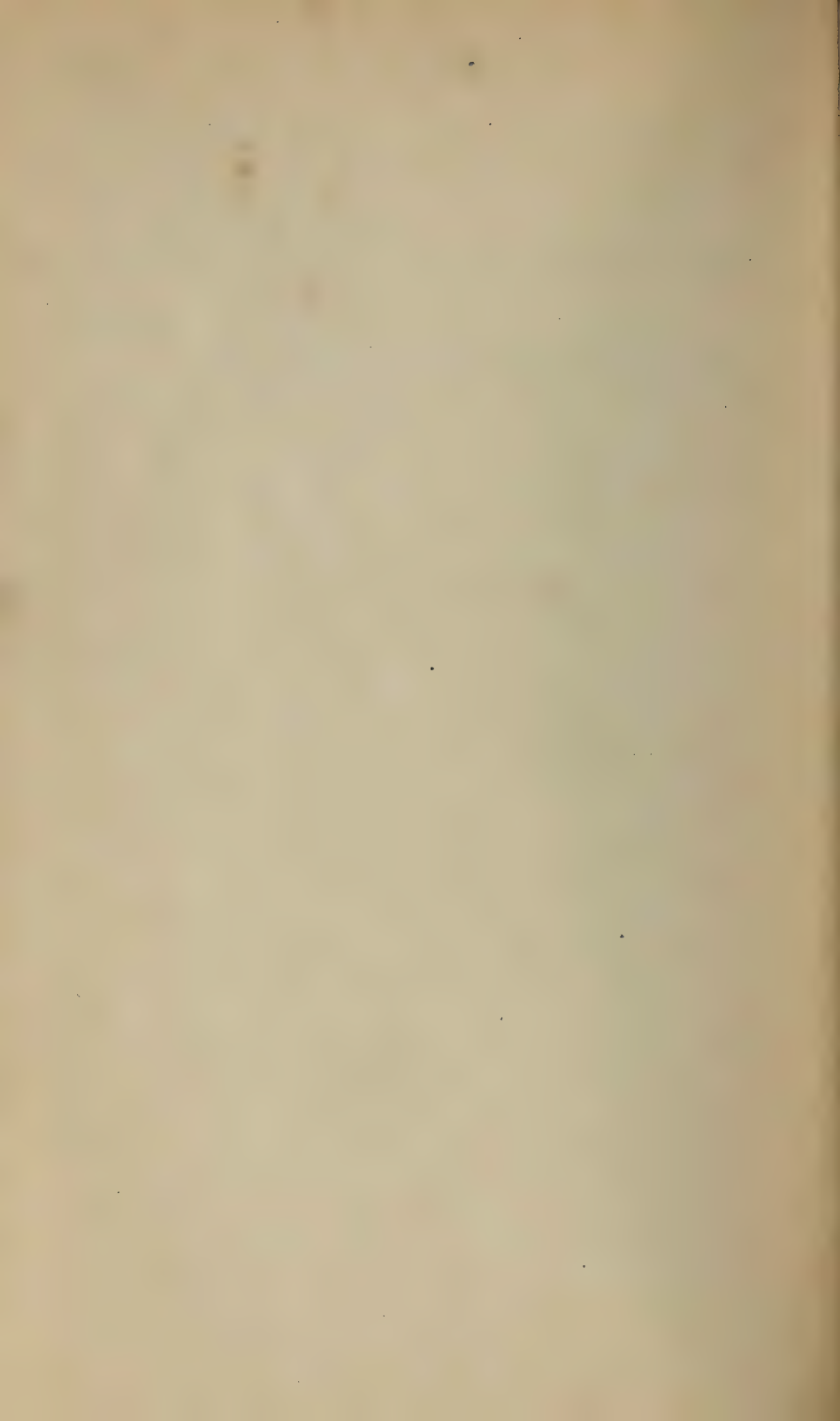
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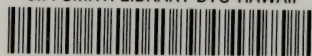








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